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# The implementation of restorative justice policy: a case study of one police force in England and Wales

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June 2015

*A thesis submitted in fulfilment of the requirements for the degree of Doctor of Philosophy*

## **Abstract**

The implementation and subsequent embedding of restorative justice across a police force is fraught with difficulties, including cultural barriers to reform, structural barriers including management and hierarchy, and practical barriers for those officers tasked with ‘doing’ restorative justice within the confines of traditional criminal justice processes. There is also a lack of consistent understanding across a police force in relation to what restorative justice entails, and as to the key values and principles that underpin it.

This thesis analyses the implementation process of restorative justice across one police force in England and Wales. The study sought to understand the key opportunities, constraints and limitations with regards to the implementation of restorative justice policy. It further explored understandings of restorative justice across the force. The force was observed over an eighteen month period from July 2012 to December 2013; access was given to documents, crime recording systems, and other relevant data. Four focus groups were conducted with thirty one participants representing frontline officers from different commands across all four force localities. A further ten interviews were conducted, eight with managers who were members of the restorative justice steering group, one with the Chief Constable and one with the newly-elected Police and Crime Commissioner.

The research found evidence of a ‘continuum of understanding’ demonstrating the subtle differences in the ways in which different ranking officers conceptualise restorative justice. The research also identifies some of the key barriers to successful implementation. These factors included a top down implementation process which neglected the role of the community, and failed to empower officers or offer them meaningful involvement in the implementation prompting resistance both from frontline workers and middle management. It also found a great deal of confusion due to mixed messages, and a lack of concrete details which left many officers unable to fully understand and utilise restorative processes. Certain factors were also identified which helped to propel the implementation process. These included strong leadership and a small but significant culture shift across the organisation. The findings of this research are relevant beyond the police force that was the subject of the research and contain important lessons in terms of the roll out of new policy initiatives.

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Signed: Kelly Jane Stockdale

Date: 25<sup>th</sup> November 2015



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# Chapter One: Introduction

## Introducing the thesis

Restorative justice offers a different model of repairing the harm caused by conflict and crime whilst providing a balanced approach to the needs of the victim, the offender and the community. The use of restorative justice has proliferated across Western criminal justice systems over the last thirty-five years. In England and Wales various experimental, small-scale, innovative attempts at localised problem-solving that were loosely based on restorative principles started to emerge (Hinks and Smith, 1985, Smith, Blagg *et al.*, 1988, Marshall and Merry, 1990). However, it was following from the initial experiments of police-led restorative conferencing in the 1990s (Moore and O'Connell, 1994, McCold and Wachtel, 1998) and the subsequent large-scale introduction of restorative justice across the police force in Thames Valley (Hoyle, Young *et al.*, 2002) that led to a period of restorative activity in policing across England and Wales at the turn of the twenty first century. However, this appeared to decline over the following decade, prompting exploration into reasons for its decline and the challenges to successful implementation (Hoyle, 2009).

Contrary to academic concerns a survey of police forces at the end of 2009 suggest that the use of restorative justice by police forces in England and Wales is expanding at a 'significant pace' (Shewan, 2010). It is currently used, in various forms, by at least three quarters of police forces across England and Wales (Shewan, 2010, Herbert, 2011) where it is used for incidents, low level crimes and for serious offences. It can be used as a diversionary activity, as a stand-alone outcome and in conjunction with other criminal justice disposals. It is also used by some forces for police complaints by members of the public and internally for workplace disputes. Restorative justice across police forces in England and Wales use scripted police-led facilitation and have come to be defined within the police by the process used which is categorised as: 'Level 1' (an instant disposal), 'Level 2' (a restorative conference that takes more planning), and a 'Level 3' (post-sentence conference).

However, there are questions as to whether police activity on the ground constitutes restorative justice (Parker, 2013), particularly in relation to 'Level 1' instant disposals which demonstrate little restorative process (O'Mahony, 2012) and the effectiveness of which are not based on empirical evidence (Slothower, Sherman *et al.*, 2015). Furthermore restorative justice is being used to different degrees by police forces in England and Wales and there is concern at the lack of consistency in its use both between and within forces (Meadows, Kinsella *et al.*, 2014). This is despite attempts to standardise police use of restorative justice including the setting of minimum standards and production of guidance documents by the Association of Chief Police Officers (ACPO) in 2011.

Research suggests that there are significant barriers to the successful implementation of restorative justice across a police force, particularly in relation to police culture and authoritarian practices (Young, 2001:220-1). There needs to be clear leadership and vision (Bazemore and Griffiths, 2003), and the force needs to be proactive to ensure implementation; this includes recognising conflicting elements within the force such as the pressure to meet targets (2009). Problems may occur if restorative justice is not sufficiently embedded within policing and its use may decline if there are changes within the force, for example a change of leadership (Hoyle, 2009). It is also imperative that consideration is paid to the ‘philosophical underpinnings’ of police-led models: “if clarity cannot be achieved here, practice on the ground is bound to be inconsistent, incoherent and, at worst, indefensible.” (Young, 2001:222). Understanding the principles of restorative justice is therefore vital to creating and delivering good police-led practices; however, if barriers to implementation are not addressed then practices are unlikely to be implemented, embedded or sustained.

This thesis contributes to understandings of restorative policing through an exploration of one police force’s journey in the implementation of restorative justice policy. In doing so it considers three areas. Firstly, the way that restorative justice is understood across the police force and how these understandings differ at an individual level, between ranks and roles, and how changes have occurred at an organisational level over time. Secondly it explores the constraints and barriers faced by a police force when implementing restorative justice. Finally, it explores the opportunities present that allow for successful implementation. The fieldwork followed a period of restorative justice ‘re-implementation’, or ‘re-launch’ as it was often referred. The force had previously launched restorative justice four years prior to the research taking place: whilst it was being used in some areas (both in terms of geographical areas and across different commands, for example: neighbourhood policing, response and crime and justice) it had not been embedded across the force, nor was it being consistently used. The force was therefore attempting a re-launch of a new, rebranded ‘restorative approach’, with new policy guidance and an ambitious training programme.

The case study was selected as I was employed by the police force at the time; I therefore was aware of the previous attempt at implementing restorative justice and the plan to re-launch. I was given full support from the force to carry out this research and the opportunity to access any aspect of the process. As an ‘insider/outsider’ researcher I had access to a wide breadth of data and information and so faced difficult decisions regarding which aspects of restorative policing to include. It is important to note that this thesis is about process rather than outcomes, and is not an evaluation. For this reason it does not include interviews with victims or offenders or use any case file data or information from restorative justice

conferences that took place. By doing this it allows a focus specifically on the implementation process and allows for a reflection on the changes and culture shifts that occurred within the organisation since restorative justice was first introduced.

This first chapter will outline the aims of the research and state its original and distinct contribution to scholarship. I will explain why I chose to undertake this research including my role as an insider/outsider. The chapter will conclude by summarising the structure of the thesis.

## **Research aims**

The overarching aim of this research is to explore how specific policies in relation to restorative justice have been accepted, communicated, understood and implemented at a local level by a single police force in England and Wales.

In order to answer this overarching aim three research questions were set:

1. What are the organisational and individual understandings of restorative justice: how is 'restorative justice' defined by a police force and understood by its staff?
2. What are the constraints and limitations when implementing restorative justice policy across a police force?
3. What were the key opportunities with regards to successful restorative justice policy implementation?

## **Contribution to knowledge**

This research had broadened the understanding of restorative justice and policing; it has specifically considered police officers' reflections on the implementation process and charted some of the structural, cultural and practical barriers to implementing restorative justice. By researching middle managers and frontline officers' experiences of the process it has considered some of the micro elements that impact on policy implementation. In doing so it has raised areas for consideration in relation to the everyday practical information that frontline officers need to be given if they are expected to both engage with restorative justice values, and use restorative processes in their day-to-day activities. This research demonstrates that resistance and barriers to restorative justice are not necessarily related to the idea of restorative justice, rather they are generic resistance strategies employed by officers in relation to any attempt at reform.

The original contribution of this thesis is to present a 'continuum of understanding' of restorative justice across a police force; this is useful at a theoretical and practical level. Theoretically it identifies the impact of police culture on the way restorative justice is understood and defined by those who are implementing policy and how it is translated

through the ranks to those tasked with ‘doing it’. At a practical level it serves to illustrate how the key values of restorative justice can become ‘lost in translation’ and therefore highlights the need not only for concrete definitions but a greater emphasis on bottom up implementation, in order to address the micro-level practical barriers typically missing from policy and guidance.

### **Researcher rationale**

This research stems from an initial research proposal submitted in 2007 on restorative justice. At the time I had been volunteering with a local Youth Offending Team as a referral order panel member for a number of years. This sparked an interest both in restorative justice in a general sense and particularly in the differences between my lived experience of facilitating conferences as a ‘community volunteer’ and the theoretical basis for restorative justice I had learnt as an undergraduate criminologist. Unfortunately, the same day that I enrolled on the PhD course I became seriously ill. After a long period of time in hospital and further month’s recovery at home I had to abandon my PhD. I started working for the police force shortly afterwards in March 2008.

Later that same year a new Assistant Chief Constable arrived in the force and I watched with interest as ‘restorative justice’ started to be introduced. Four years later I had the opportunity to begin the PhD research at a new institution. Whilst my interest in restorative justice had continued, the knowledge base had moved on swiftly and I spent some time exploring ways to adapt my original research proposal. Although initially wary about conducting ‘insider’ research I was encouraged by colleagues to speak to the force executive about my PhD, which was then broadly ‘on restorative justice’, and it was met with enthusiasm and support. The research topic was chosen both out of interest to explore ‘what went wrong’ when restorative justice was first introduced (having witnessed the initial implementation process I left the force for a period of maternity leave, however, on my return it felt like there was a distinct lack of restorative activity taking place across the force). In addition, the timing of the re-implementation coincided with the period I would be conducting fieldwork: this created the opportunity to attend planning meetings and gain a real insight into the implementation process. It provided a unique combination of factors and allowed me to research both the problems police forces can experience when implementing restorative justice, including officer’s reflections on the previous failed attempt, and the opportunities considered necessary for success.

I was aware that had the research been more evaluative in nature: for example, observing conference facilitation, or interviewing victims or offenders, it would entail an evaluation of practices and I did not want to be in a position of evaluating my colleagues’ work, or more

broadly my organisation's approach. Whilst the thesis explores the barriers faced by the force and documents some of the failures with the initial implementation, the issues raised were mostly recognised by the organisation, hence the re-implementation. Organisational change and reform is a long process, much further in-depth research would be necessary to show if the force was indeed becoming truly restorative. However, this thesis provides an in-depth case study of one force's journey along a restorative route.

### **Outline of the thesis structure**

This thesis comprises ten chapters and is structured as follows: the next three chapters provide the background and academic context to situate this study; these chapters are followed by the research methods, an introduction to the case study, three empirical chapters and a final concluding chapter.

The first of the literature chapters, Chapter Two, provides a brief history of restorative justice and therefore offers a background understanding of the state's role in criminal justice and the acceptance of restorative justice over time. It explores academic discussions in relation to its use in pre-modern times, the state's involvement in conflict and its rise in popularity across Western countries over the last forty years. The chapter then proceeds to discuss what is meant by the term restorative justice. These academic understandings are important in order to compare the ways in which police organisational and individual understandings converge and contrast from the academic concepts and definitions. This chapter considers the problems faced when trying to build a universally accepted definition and the key values or beliefs that encompass restorative justice. It also explores the limits of restorative justice, particularly in relation to its use for all crime types. This is important as later discussions focus on the implementation of restorative justice across the police force as a whole, for all commands, including those dealing with serious crimes, and potentially vulnerable victims and offenders.

Chapter Three focuses specifically on restorative justice and the criminal justice system, firstly exploring its use in a general context before considering its practice in England and Wales in more depth, examining its use both for youth and adult offenders. This broad focus on the criminal justice system as a whole is important as police do not work in isolation and the broader use, or rejection, of restorative justice over time by other agencies can impact both on police adoption of restorative justice and influence officers' understandings of what restorative justice is, and what it can be used for.

Chapter Four provides further context in relation to restorative policing: it considers the role of restorative policing in symbolic reform and explores specific issues regarding its implementation based on police culture and organisational theory. Chapter Four also

examines the use of restorative justice by police forces in more detail, considering initial studies of restorative policing in Wagga Wagga, Australia, and Bethlehem in the United States. It then focuses on restorative policing in England and Wales, drawing on the large-scale study of police use of restorative justice in Thames Valley and other more recent projects.

Following on from the three background chapters Chapter Five provides an outline of the research methods used to conduct the study, including the research design and the process of analysis. It will also discuss ethical considerations and the challenges faced as an insider / outsider researcher.

Chapter Six will introduce the case study providing a background to the force, the previous training, how restorative justice had previously been used and charting the evolution from restorative justice to the implementation of a new restorative approach. This is important in order to provide context for the case study, particularly in relation to the events surrounding the initial implementation and how the use of restorative justice declines, prompting a 're-implementation' to occur.

There are then three chapters presenting the empirical data. Chapter Seven addresses the first research question and explores police understandings of restorative justice. Firstly it considers how some of the key values of restorative justice are described, discussed and defined by the police at both an individual and an organisational level. The chapter then proceeds to consider the differences in understanding across rank and role. It presents a 'continuum of understanding' showing the slight differences that occur between ranks that lead to an overall difference between frontline workers, who are orientated towards more practical aspects of 'doing' restorative justice, and members of 'top command' or executive high ranking police leaders who are focused more towards the philosophical aspects and different nuances that a restorative approach may take.

Chapter Eight considers some of the barriers that can affect effective implementation of restorative justice across a police force. This chapter addresses the second research question, barriers to implementation. In doing so it explores the practical, cultural and legal barriers faced by frontline officers.

The final empirical chapter, Chapter Nine, focuses on the third research question and explores the opportunities for implementing restorative justice policies and practices across a police force. It considers the role of leadership and vision and considers some of the cultural shifts that occurred since restorative justice was initially implemented that enabled the re-launch. Building on the previous chapter which explored the barriers to implementation, this

chapter provides details of the lessons learnt by the force and the way the (re)implementation were adapted and refined in light of this.

Chapter Ten is the concluding chapter. This brings together the main research findings from across the three empirical chapters and synthesises them with existing research and literature covered in the earlier chapters. It concludes by summarising the overall findings of the research, outlining some of its limitations and suggesting further areas of research.



## **Chapter Two: Restorative Justice**

### **Introduction**

This chapter provides an overview of the key theoretical debates surrounding restorative justice and its definition. In doing so it considers the history of restorative justice, the role of the state in crime and justice and the framing of restorative justice as an ‘alternative’ to the criminal justice system. In order to provide a base of understanding the chapter will discuss some of the problems defining restorative justice and consider some of the academic definitions of restorative justice that have been provided. The lack of an uncontested definition will also be problematised. This thesis will explore both organisational and individual understandings of restorative justice and so it is necessary to move beyond basic definitions, therefore this chapter will also consider the key values and beliefs of restorative justice and typologies of restorative practices. Finally the issue of the limits of restorative justice including the compatibility of restorative justice with criminal justice will be explored; both in terms of its fit within traditional criminal justice structures and its suitability for use on all crime types.

### **Brief History of restorative justice**

The history of restorative justice is complex and some proponents have attempted to charter its roots by examining changing forms of justice including: historical turning points, changes to the structure of societies as well as through the introduction of, and changes to, formal laws (Braithwaite, 1991; Graef, 2001; Zehr, 2002, Weitekamp, 1999). Whilst elements of the way in which certain elements of history has been selected to support the justification for restorative justice have been heavily criticised (Daly, 2002, Sylvester, 2003; Cunneen, 2010) it is helpful to consider the way in which the system criminal justice system in England and Wales came to be based on retributive theories the broader social movements towards more utilitarian, restorative theories that have taken place.

Restorative justice, as broadly understood in contemporary criminological circles, is often said to originate from a social movement in the early to mid-1970s (Daly and Immarigeon, 1998) and from an overall feeling that the justice system ‘deepens societal wounds and conflicts rather than contributing to healing or peace’ (Zehr, 2002). Marshall argues that restorative justice started first as a practice born out of a need to do things differently (Marshall, 1996), indeed restorative justice practices including victim-offender mediation, sentencing circles, family group conferences and other processes which are now termed ‘restorative’ originally evolved from different groups of people in different countries around the world, and were in most cases unknown to each other. However, Daly and Immarigeon (1998) argue that restorative justice theories did not come after practices as Marshall

suggests, and instead they are grounded in other theoretical writings of the time, particularly informal justice as well as abolitionism, reintegrative shaming, psychological theories, feminist theories of justice, peace-making criminology, philosophical theories and religious and spiritual theories (Daly and Immarigeon, 1998). These ‘socio-cultural understreams’<sup>1</sup>, Walgrave argues, found fertile soil and increased awareness both with the public and amongst policy-makers that “traditional punitive responses to crime have ended up in a dead end” (Walgrave, 2003).

The Western roots of this social movement can be traced back towards a new healing justice and the civil rights and women’s movements of the 1960s (Daly and Immarigeon, 1998). The US civil rights movement challenged racism by the police and unfairness by the courts and the criminal justice system. In addition the women’s movement brought attention to the mistreatment of victims (especially domestic violence victims) by the criminal justice process. Strong links to the victim’s movement are also claimed with the recognition that victim’s needs and rights were being overlooked by the current justice system; that conflict had been ‘stolen’ by the state (Christie, 1977). Cunneen, however, argues that restorative justice arising from the victim’s rights movements is only a partial truth (Cunneen, 2010). Richards (2009), for example, states that the victim’s rights movement developed out of concern regarding serious offences such as rape, murder, child abuse and for campaigns for victims to be more involved in the criminal justice process. She challenges the idea that restorative practices emerged in response to a growing concern for victims of crime as restorative justice is mostly applied to less serious or minor crimes (Richards, 2009) the victims of which are less likely to want to be involved in the criminal justice system (Gardner, 1990).

In addition to the civil rights and feminist movements, the 1960s and 70s also saw socio-legal scholars campaign for a move away from the formal criminal justice system to alternative forms of dispute resolution (Abel, 1982). The need to do justice differently was growing and supporters of this new ‘informal justice’ looked to the applicability of non-Western practices that were built on different principles to those operating in capitalist Western societies: exploring the potential for a new legal pluralism (Merry, 1988:872). Informal justice argued for less formal modes of dispute processing that would enable greater levels of participation in the criminal justice system and access to justice (Matthews, 1988). It advocated non-formal, non-adversarial, non-conflictual procedures; it required de-centralisation, de-regulation and de-professionalisation and greater community participation.

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<sup>1</sup> Walgrave specifies these as: communitarianism and emancipation movements of indigenous people, victims’ movements, feminist approaches to crime and criminal justice and critical criminology (Walgrave, 2003: vii)

The purpose of informal justice was defined as arbitration, mediation, reconciliation, reparation and restoration. Informal justice was criticised for its potential outcomes such as organised vigilantism (an example often given is of punishment beatings in Northern Ireland, however, McEvoy and Mika (2002) argue that the Northern Ireland experience shows that informal justice is possible if based on a genuine commitment to restorative justice values and processes).

The search for an alternative model was reflected in academic writing during the 1970s as a period for social movement; Kuhn's theory of 'paradigm changes', which offered to revolutionise the way we view and understand the world (Kuhn, 1962) was applied to criminal justice. The criminal justice system based on a paradigm of punishment was believed to be in crisis: Barnett argued that "in the criminal justice system we are witnessing the death throes of an old and cumbersome paradigm, one that has dominated Western thought for more than 900 years" (1977). The way forward for criminal justice, Barnett argued, was a paradigm shift from punishment to restitution (1977). The idea of creative restitution had been proposed by Eglash 1958 (and re-printed later in 1975 as part of a collection of essays examining how the victim features in relation to compensation and restitution by the criminal justice system). Eglash expanded the idea of offenders simply paying court-determined fines or reparation and looked towards creative restitution: "A constructive, redeeming act ... directed first towards the victim" (Eglash, 1975).

Furthermore, restitution was not only to place the victim as the first concern but the offender was also to participate in deciding how to repair the damage their offence had caused (1975). For Barnett the meaning of restitution is very simple; crime is no longer seen as just an offence against the state but rather it is seen as an offence between individuals: the victim of crime has suffered a loss, and for justice to occur the offender must make good the loss caused (1977: 287). This, Barnett describes, is a 'common sense view of crime' (1977: 288). However, Barnett's examples on how forms of 'pure restitution' could be carried out do not, take into account structural inequalities (i.e. he proposes those with the means to recompense a victim's loss could do so whilst those who could not would be confined to an employment project until the appropriate payment is made), nor does it provide any insight into how an offender's 'trustworthiness' would be defined and by whom (with no consideration given to any potential effects of race, gender, sexuality or class bias).

It was from the criticisms of mainstream criminal justice and the associated search for an alternative to punishment that the early writings on restorative justice emerged. Zehr (1990) argued that the criminal justice system was based on a retributive model; crime is an offence against the law and the state - offenders are blamed, they are guilty of violating the state and pain must therefore be administered in order to punish them. Restorative justice is an

alternative to this retributive ‘lens’; crime is seen as a conflict between individuals and victims and offenders are encouraged to see one another as such, restorative justice involves restoring and repairing human relationships: with crime comes an obligation ‘to make things right’. However, Daly (2012), amongst others (Barton, 2000, Duff, 2001, Brooks, 2012) suggest that retributive and restorative justice should not be framed as oppositional terms. Daly argues that characterising retributive justice as ‘bad’ and then contrasting this with restorative justice - which therefore becomes characterised as ‘good’ - is “inaccurate”, and a ‘highly misleading simplification’ used to ‘sell’ restorative justice as a superior justice product (Daly, 2012). Daly also argues against the assumption that an ideal justice system should be either ‘retributive’ or ‘restorative’ and points to her observations of conferences in which some elements of retribution, rehabilitation and restorative justice were all present. Part of the problem, Daly argues, is the variability in which terms such as ‘punishment’, ‘retribution’ and ‘punitiveness’ are used (2012:61). Terminology and the vast array of thoughts, values and processes associated with different terms can cause significant problems when analysing justice practices; something that is acutely apparent in on-going attempts to establish a definition of restorative justice.

## **What is restorative justice?**

### **Definition**

There is no universal definition of restorative justice and it is important to note that advocates of restorative justice (both practitioners and academics) do not always have the same thing in mind when using this term (McCold, 1998b). For some restorative justice is a movement (Zehr, 2002), whereas others describe it as a set of ideals (Daly, 2006), or values (Braithwaite, 2003, Johnstone, 2011). There is disagreement as to whether restorative justice should be seen as a process or an outcome (Crawford and Newburn, 2003), whether it should only refer to events where the victim and the offender meet or engage in some form of dialogue, or if it should include all actions that seek to repair harm (Bazemore and Walgrave, 1999). The most quoted definition of restorative justice is that given by Tony Marshall (1996) who describes it as “a process whereby all the 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”. Whilst this definition has been generally accepted it is still problematic.

Criticisms of Marshall’s definition include the use of the term ‘process’ in order to encapsulate the different forms that restorative justice can take; it is believed that focusing on the *processes* involved fails to take into account *outcomes* (Dignan, 2005). Dignan argues that not focusing on outcomes is problematic as it fails to ensure proportionality and

fairness, and therefore fails to provide safeguards for victims and offenders. In addition the lack of focus on outcomes fails to recognise that there is the potential for inconsistency between cases that are dealt with by restorative justice and those that are dealt with by more 'conventional' means (Dignan, 2005). Further criticism concerns the lack of definition around 'stakeholders'; arguments look not only to who should be involved or excluded in the process, but how 'stakeholders' such as 'the community' are defined, including the idealisation of 'community' (McEvoy and Mika, 2002) as well as the level of participation that is required by all parties.

It is suggested that a focus on 'restorativeness', broadly understood to mean 'repairing harm', may resolve the tension between whether restorative justice should be defined by a focus on process or outcome (Doolin, 2007:431). Whilst there needs to be an emphasis on the principles of the process (the involvement of stakeholders, dialogue, a collective resolution, consensual decision-making and a forward-looking approach), the outcome of 'restorativeness' should be the determining value (Doolin, 2007:431). However, this in itself does not completely solve definitional problems; whilst there is some agreement that the objective of restorative justice is restorativeness (Walgrave, 2002) there is still debate in terms of how it is defined (Doolin, 2007). Some questions raised include to whom it should apply (i.e. the victim, offender, or wider community), what kinds of harm should be restored (i.e. physical, material, or emotional harm), how it should be achieved, including which kinds of outcomes can be considered restorative. So for example, retributive sentences including custodial sentences may be considered to have restorative outcomes (Morris, 2002, Dignan, 2003). Whilst the concrete details are still unresolved, for Doolin restorativeness is not merely an option but a required outcome (2007:431). The primary aim of an encounter should be restorativeness: any other outcomes that ensue, for example reducing reoffending, should be regarded as additional benefits, but not the intended goals (McCold, 2004).

Further definitional problems surrounding restorative justice consider whether it should be broadly applied or applied only to situations where there is some form of encounter or dialogue between the victim and the offender. McCold and Wachtel (2002) see it as a collaborative problem-solving approach to reintegrate individuals and repair communities affected by the offence. They define restorative justice as: "a process where those primarily affected by an incident of wrong-doing come together to share their feelings, describe how they were affected and develop a plan to repair the harm done or prevent reoccurrence" (McCold and Wachtel, 2002). The definitions by Marshall (1999) and McCold and Wachtel (2002) refer to a 'purist' model of restorative justice by only referring to face-to-face meetings. They have been criticised for being too narrow (Walgrave, 2000). In contrast a 'maximalist' model, defines restorative justice as 'every action that is primarily oriented

towards doing justice by repairing the harm that has been caused by crime' (Bazemore and Walgrave, 1999). The maximalist approach in turn has been criticised for being too inclusive in that it becomes hard to distinguish which elements in the policy and practice are uniquely restorative (Sharpe, 2004). Doolin argues that realistically restorative justice cannot only be limited to 'ideal' situations; even if a stakeholder is absent from the process, the application of restorative values make still be worthwhile (2007:431). The application of restorative values in relation to the potential transformative effect they may have in relation to bringing about reform in policing and more broadly across the criminal justice system will be discussed in more detail in Chapter Three.

By exploring some of the criticisms put forward we can start to understand why an uncontested definition has not been reached. Ultimately it is not just the definition that is problematic: arguments exist as to whether a definition itself is even necessary. Some argue that a definition is needed in order to have comprehensive understanding (Miers, Goldie *et al.*, 2001). Whereas others do not believe "that any single definition will ever be likely or be particularly useful" (Zehr and Mika, 1998). Although it is argued that the numerous identities of restorative justice can create confusion (theoretically, empirically and in terms of restorative justice policies), these different identities are reflective of the range of interests and ideologies that arise when the idea of justice is discussed (Daly, 2006).

Although there are various different definitions, a set of core values exists at the heart of restorative justice. Pranis asserts that although restorative justice is discussed and described in many different ways "the values of restorative justice form a consistent and coherent picture" (2007: 62). The key values Pranis identifies are respect, dignity, inclusion, responsibility, humility, mutual care and non-domination. What is significant in adding legitimacy to restorative justice is that these characteristics are consistent with Pranis' research which shows these values are similar to those expressed by a large and diverse group of participants when asked to describe 'a good process in the community to resolve conflict and harm' (2007:62). It is vital that restorative justice values are shared by a wide-range of people since "restorative justice processes do not impose a set of values on participants but, instead, create environments in which participants are able to operate according to the values they themselves affirm" (2007: 63). Furthermore shared values provide a common ground that enables dialogue between the victim and the offender around harm, repair and prevention (Pranis, 2007: 72). This 'common-sense' view of justice is argued to be one of the reasons why restorative justice has been so readily accepted by so many different nations and across a broad variety of political views (Cunneen, 2010).

However, it is essential to not only rely on process values but to consider the wider values and key principles of restorative justice (Doolin, 2007). Table 1 separates the values of restorative justice into the core values, process values and includes the dominant value of restorativeness. This is drawn from the various theoretical and analytical frameworks of restorative justice that encompass the common and core values, as well as its aims and processes.

*Table 1: Values of Restorative Justice*

<b>Core Values</b>	<ul style="list-style-type: none"> <li>➤ Victims are central, they should be empowered and play an active role.</li> <li>➤ Offender to be held accountable for their actions, to accept responsibility and to make reparation</li> <li>➤ Offender to have their sense of belonging restored and be reintegrated into the community</li> <li>➤ Community representative (in whatever form) should be present</li> </ul>
<b>Process Values</b>	<ul style="list-style-type: none"> <li>➤ Consensual Participation</li> <li>➤ Dialogue</li> <li>➤ Mutual Respect</li> <li>➤ Consensus decision-making</li> </ul>
<b>Dominant Value</b>	<ul style="list-style-type: none"> <li>➤ Restorativeness</li> </ul>

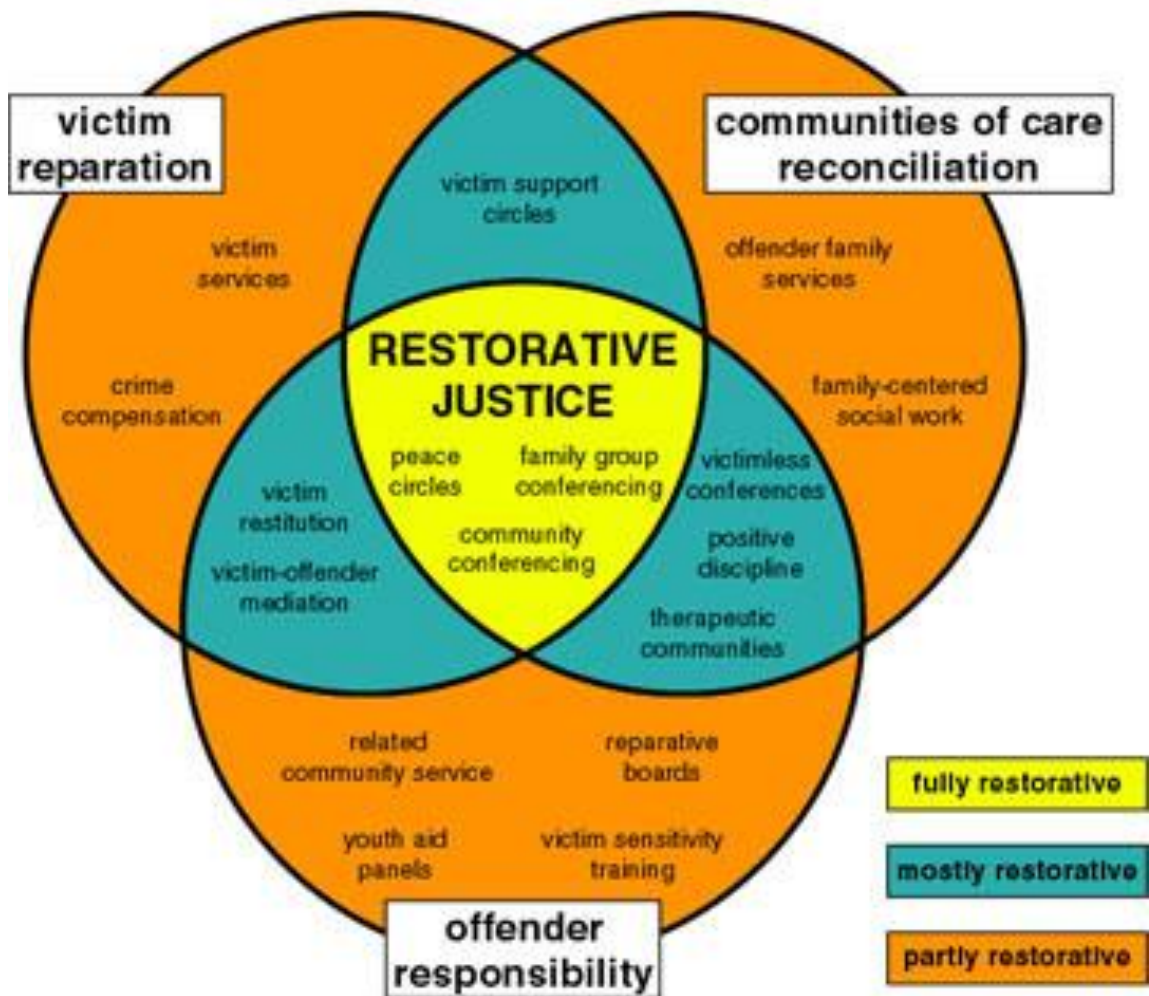
Dignan contends that such frameworks need to be able to accommodate “the full range of philosophical, practical, procedural and political differences within the restorative justice movement” whilst still enabling a distinction between approaches traditionally regarded as restorative and other victim-focussed approaches (2005). Dignan’s model<sup>2</sup> focuses on the three elements – goals, focus and process. These elements refer to the ultimate aim or goal of restorative justice in relation to putting right the harm caused by the offence, the orientation or focus on the offender taking responsibility and being held accountable for their actions, and the way in which restorative approaches operate on an inclusive, non-

<sup>2</sup> A modified version of Dignan, J. and Cavadino, M. (1996). "Towards a framework for conceptualizing and evaluating models of criminal justice from a victim's perspective." *International Review of Victimology* 4(3): 153-182.

coercive decision making process (Dignan, 2005). The framework suggested by Dignan posits these terms as a continuum of approaches that allows for narrow and broad definitions to cover the full restorative justice spectrum. An earlier model proposed by McCold used a Venn diagram (Figure 1) to distinguish between practices that were fully, mostly or partly restorative (2000). For McCold the three elements were defined as 'victim reparation', 'offender responsibility' and 'communities of care reconciliation' and relate to the three major 'stakeholders' in the offence: the victim, the offender and the community. It is only those practices that meet at the intersection of all three elements that are classed as fully restorative, although there is no guarantee that the actual practices themselves are 'restorative' (McCold, 2000, Daly, 2002). Other theoretical frameworks encompass the values, aims and processes of restorative justice whereby the common factor is the attempt to repair the harm caused by the offence not just through addressing material loss but emotional aspects such as damaged relationships (Hoyle, 2010).

Operating under these theoretical frameworks of restorative justice are a wide variety of practices and processes. For example family group conferences, victim offender mediation, reparation boards and sentencing circles (Bazemore and Umbreit, 2001).





*Figure 1: Restorative Practices Typology (McCold and Wachtel, 2003)*

Although some of the core issues of these practices are similar (i.e. they involve the victim and the offender communicating with each other, empowerment and reparation) they have slight differences regarding the overall aims of the process, how the process itself works and who is involved e.g. the addition of community members, state officials, victims/offenders family or supporters in the process.

The focus of this thesis is the use of restorative justice by the criminal justice system and specifically by the police, the use of restorative justice in the criminal justice system will be discussed in more detail in Chapter Three, and restorative justice in relation to policing will be examined further in Chapter Four. The remainder of this chapter will continue to explore what restorative justice means by focusing on some of the key values and beliefs in more detail. It will firstly consider reparation, healing and restoring relationships, secondly it will discuss rehabilitation, accountability and reduction in offending and thirdly it considers reintegration and social capital. The chapter then moves on to outline issues in relation to the differences between restorative justice and restorative practices. The final section assesses

the limitations of restorative justice. These broad understandings of restorative values and beliefs will set the scene for later empirical chapters in relation to police understandings of restorative justice.

## **Values and beliefs**

### ***Reparation, healing and restoring relationships***

One of the fundamental principles or beliefs of restorative justice is that crime is a violation of people and interpersonal relationships (Zehr, 1980). Victims (those most affected by the offence) and the community (including the victim's and offender's family, as well as other community members) have been harmed and are in need of restoration (Zehr and Mika, 1998). Offenders are obligated to repair the harm caused, primarily to victims but also to the wider community (Zehr and Mika, 1998). Key to this is the idea of reparation in repairing or making right the wrong, to redress, to correct or remedy, the situation. Umbreit, Coates *et al* (1994) found that victims are more likely to receive some form of reparation if, instead of being an arbitrary notion imposed by the court the restitution plan is negotiated directly between the victim and the offender, as is the case in restorative justice.

Reparation can take many forms which mostly fall into two general (and often overlapping) categories, namely material reparation or symbolic reparation (Sharpe, 2007). Material reparation provides something specific to address the harms caused by the wrongdoing and aims to reduce both the harm caused by the crime as well as address any potential cost to the victim that the crime has caused (Sharpe, 2007:27). Material reparation often takes the forms of restitution or compensation; compensation in this sense has a narrow meaning mostly referring to a financial payment made to the victim to acknowledge loss and to make up for something that cannot be returned or repaired (Sharpe, 2007). Restitution however, is a much broader term and can involve financial payment, returning or replacing goods or property, doing direct services to the victim or a combination of these (Sharpe 2007:27). Whilst material reparation can be valuable in helping a victim recover from the crime, symbolic reparation can be more significant as it can convey the offender's willingness to make amends (Sharpe, 2007). Dignan suggests that compared to material reparation "many would argue that the psychological impact of receiving an explanation and an apology are of far greater value" (1992:460). Symbolic reparation therefore, can include an apology by the offender, the offender expressing remorse, offering an explanation as to why they carried out the crime and, importantly, taking responsibility for their actions. It can also be expressed through the offender carrying out acts such as monetary payment or time given to a charity of the victim's choice, community work or through the offender agreeing to address the roots of their offending behaviour and actively seek help or treatment for any problems they might have (Sharpe, 2007). Strang argues that "what victims want most is not material

reparation but instead symbolic reparation, primarily an apology and a sincere expression of remorse' (Strang, 2004: 98).

Reparation has come to be an expected outcome of some restorative processes and features as a compulsory requirement to many programmes, particularly in relation to youth justice, where reparation has a high profile (Campbell, Devlin *et al.*, 2005). An evaluation on youth referral orders in England and Wales by Newburn, Crawford *et al* (2002) found a mix of material and symbolic reparation was used (often the order would require the offender to do elements of both). Community reparation was most commonly used (42% of referral orders), followed by a written apology<sup>3</sup> (38%). It is hoped that an apology would naturally occur from the offender as they reflect on their actions whilst writing a letter. Other forms of reparation also occurred including indirect reparation (10%), direct reparation to victim or the payment of compensation (7%) (Newburn, Crawford *et al*, 2002:29). Various other forms of unspecified activity also took place. Concerns about reparation were raised in relation to the difficulties finding suitable and meaningful activities community reparative activities or supervision for activities due to a lack of resources (Newburn, Crawford *et al* 2002:29). Reparation was less likely to be specifically linked to the offence or the victim's wishes with the same reparative activities being repeatedly used (for example, making items such as bird boxes or Christmas wreaths to be sold to raise funds for a non-specified charity). Also of note is that direct reparation to the victim is relatively rare, yet Van Ness argues that whilst both the direct victim and the community should be considered for reparation priority should be given towards the victim (1993).

Whilst reparation has been the focus of some processes, by contrast some early British programmes have been found to contain very little (Marshall and Merry, 1990). Reparative elements were often tokenistic and apologies were in the form of dictated letters (Davis, Boucherat *et al.*, 1989) although later schemes have tried to address this and take the needs and views of victims much more seriously (Dignan, 1992). Shapland *et al* found that in restorative justice conferences with adult offenders reparation had a relatively low importance (Shapland, Robinson *et al.*, 2011). Here they found that reparation only occasionally featured as an outcome; it had a low place in the victims' scale of wishes and expectations, and there were no significant associations between reparation and satisfaction (Shapland, Robinson *et al.*, 2011). Instead they found that victims "put much greater stress on the symbolic reparation of offenders taking control of their lives and deciding to change their life patterns away from offending (desist) through tackling the problems leading to offending" (Shapland, Robinson *et al.*, 2011).

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<sup>3</sup> Or 'letter of explanation' as they were often called; all aspects of a referral order are compulsory and a young offender should not be forced or coerced into apologising.

Marshall (1990) highlights that ambivalence in relation to the role of material reparation can be attributed to the existing tension between the criminal justice system and restorative justice philosophies. An important element of this tension is the structural position of the victim in the contemporary criminal justice system<sup>4</sup>: when a crime has been committed the starting point in this system is ‘what should be done with the offender?’ The needs of the state are given priority; the system is not doing everything necessary to treat victims with respect: victim’s views are still subordinate to those of the state (Wright, 1999, Johnstone, 2011). It is argued that the disempowerment of the victim and the neglect of their needs by the criminal justice system can exacerbate the wounds left by the crime and lead to secondary victimisation (Johnstone, 2011). Because restorative justice involves a change in the structural position of victims: their need for restitution or reparation is balanced with demands to punish the offender “[Victims] have much greater control over how the wrong against them is defined and how it should be dealt with. Hence ... restorative justice helps to *heal* the wounds of crime suffered by the victim” (Johnstone, 2011:13 original emphasis). A substantial theme in restorative justice is therefore that the question at the start of the process refers to ‘what should be done for the victim?’ instead of the offender. In order to answer this an emphasis is placed on listening to what the victim actually wants to happen (Johnstone, 2011).

***Rehabilitation, accountability, reduction in reoffending***

In addition to recognising harm to the victim, restorative justice also recognises that offenders themselves are often harmed (Zehr and Mika, 1998). Thus the process of restorative justice seeks to involve the healing and reintegration of offenders back into the community. This reintegration of offenders can be interpreted in different ways; ideally the offender will be rehabilitated and will no longer engage in criminal behaviour. However, the more short-term goal of getting the offender to take responsibility for their crime, to understand the impact of their criminal behaviour and to demonstrate a genuine commitment that they will not engage in criminality in the future is also viable.

According to Zehr and Mika crime creates obligations and liabilities; offenders thus should be obligated to accept responsibility for their actions, repair the harm done by their crime and to play an active part in making things right with the victim (Zehr and Mika, 1998). It is seen as an imperative part of the process for the offender to come to a ‘repentant understanding’ (Duff, 1992) of what they did and the harm caused by their actions.

Bazemore and Schiff argue that “when offenders accept responsibility and make credible attempts to complete their obligation to make amends to the satisfaction of victims and community members, they essentially ‘earn their redemption’ and are more likely to gain

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<sup>4</sup> See Wright, 1999, Cayley, 1998, Van Ness, 1993

support for their reintegration than those who do not” (2005: 51). Showing signs of remorse are therefore a ‘crucial prerequisite’ for reparative conversation to take place (Daly, 2000b). However, this is reliant on victim and other key stakeholder’s interpretations and judgement of the offender’s expressions of remorse as ‘genuine’, or their attempts to earn redemption as ‘credible’: and ignores the culture, gender and class biases that might influence the process. These limits to restorative justice will be discussed in more detail later in this chapter: whilst there are potential benefits for some, not all offenders will respond positively to the restorative justice process.

There is evidence to suggest that unlike those who complete reparative activities as part of a routine requirement or punishment, offenders who engage in restorative processes and complete collectively agreed restitution are more likely to experience positive behaviour change (Bazemore and Schiff, 2005). Maxwell and Morris’s research on restorative conferencing and reoffending in New Zealand showed that restorative approaches can affect the probability of reoffending (2000). However, simply participating in a family-group conference is not enough, Maxwell and Morris identified three critical elements that have to be present if the conference is to have a positive impact on the probability of future reoffending: Firstly, the process has to seem fair (especially to the young person’s parents) and it has to involve the young people both in the process, and in any decisions/outcomes. Secondly, a conference must ensure that neither the parents nor the young person are left feeling bad about themselves. Thirdly, and most importantly, the process must engage the young person and do all that it can to ensure that the young person feels sorry for what they have done, show their remorse to the victim and make amends for what they did (Maxwell and Morris, 2000).

In terms of reoffending Sherman and Strang note that restorative justice “may work better with more serious crimes rather than with less serious crimes” (2007). Although some trials and experiments have shown success for restorative justice (Marshall and Merry, 1990, Maxwell, Morris *et al.*, 1999) others have shown restorative techniques to be no more effective (Wilcox, Young *et al.*, 2004). However, Sherman and Strang argue that restorative justice is consistently more successful in reducing, or at least not increasing, violent crime (2007). The largest effect showing this is from the RISE project in Canberra, Australia. This was a randomised experiment with early results from the project showing that diversionary conferences reduced offending rates by approximately 38 crimes per 100 offenders per year, relative to the effect of being sent to court (Sherman, Strang *et al.*, 2000). Later results from the RISE project show that those who were assigned to the RJ group dropped by 84 per 100 offenders more than in the control group (Sherman, Strang *et al.*, 2006a). A further study in Northumbria of females aged under 18 who took part in an RJ conference as part of a final

warning for assault had twice as great a reduction in arrests per 100 offenders compared to the control group (Sherman, Strang *et al.*, 2006b). However, the effect on white males under 18 in the same Northumbria study showed no difference between the recidivism rates for the restorative justice and the control group (Sherman, Strang *et al.*, 2006b). Although the results from these experiments are unable to explain why restorative justice works for some sample groups and not for others Braithwaite argues that “while RJ programmes do not involve a consistent guarantee of reducing offending even badly managed RJ programmes are most unlikely to make re-offending worse” (Braithwaite, 2002a).

A meta-analysis of later research has shown that in stark contrast to custodial sentences which are associated with an increase in reoffending (Smith, Goggin *et al.*, 2002), restorative interventions, on average, show small but significant reductions in recidivism (Bonta, Jesseman *et al.*, 2006). The study showed that all restorative programmes were capable of performing equally well, with no model outperforming the other. Importantly the research found that later studies (post 1996) showed restorative justice as having greater positive impact on levels of recidivism. This they attributed to five areas: that there was a higher adherence to the principles of restorative justice; that for later programs their models of restorative justice were better developed and more conceptually refined; the rationale of the model and the description of restorative justice were better defined; that the programmes were more highly structured; and that staff involved in delivering restorative justice had received specific training (Bonta, Jesseman *et al.*, 2006:115). This meta-analysis therefore highlights the effectiveness of restorative justice programmes on reducing reoffending and also identifies areas that can increase its effectiveness leading to lower rates of recidivism.

### ***Reintegration and social capital***

A crucial part of restorative justice principles is the role placed on society for the reintegration of offenders and the effect this participation can have on the empowerment of communities (Bush and Folger, 1994). It is argued that public involvement in criminal justice is critical; it can increase public confidence and assuage public fears (Crawford, 2002). The public also play a considerable role in crime prevention and informal social control and give legitimacy to the system. Restorative justice can aid the flow of information between the public and criminal justice agencies and their involvement can also ensure fairness (Crawford, 2002). ‘Community’ therefore is one of the main parties or ‘key stakeholders’ in restorative encounters (Zehr and Mika, 1998).

In addition to empowering the community society plays a vital role in reintegrating the offender both through informal social control (Hunter, 1985, Bursik and Grasmick, 1993) and social support (Cullen, 1994). Social support is regarded as a precondition to effective social control (Cullen, 1994) due to the levels of investment in relationships and associated

social capital it produces. Bazemore & Dooley argue that in the restorative justice model “the social relationships provide both formal and informal support and control ... [this] in turn provides the emotive components of attachment to conventional groups” (Bazemore and Dooley, 2001). This is a key component of restorative justice principles which look to ‘repairing the harm’ caused by crime: the notion of repairing harm is also taken to include strengthening, restoring or establishing new relationships between offenders, communities and victims (Braithwaite and Parker, 1999). Bazemore argues that “because crime is both a *cause* and a *result* of weak relationships, strengthening relationships at the level of neighbourhood and parochial groups is a first step in healing that may also bring people together in a way that has preventative and reintegrative implications (Bazemore and Dooley, 2001 original emphasis).

The restorative model proposed by Bazemore sees the offender as having weak relationships, however, experience with positive relationships, this is especially true if the relationship is with a law abiding community member who, unlike counsellors are not paid to spend time with them (Pranis and Bazemore, 2000). This helps to provide a “bridge and buffer” between the offender and community: it is through these personal relationships where reintegration actually occurs (Bazemore and Dooley, 2001). These new roles can lead to increased skills and social capital as they provide the offender with a legitimate identity in addition to providing a link to the conventional community which, if they are committed, can help with new opportunities (Polk and Kobrin, 1972). As the relationships become stronger and new connections are made offenders accrue more ‘human capital’ which in turn can help them access ‘institutional roles’ such as work or education. This again, leads to further increases in social capital in addition to helping the offender adjust and desist from criminal activity (Bazemore and Dooley, 2001, Bazemore and Erbe, 2004).

The definition of community remains a complex one: used to describe a group of people with shared beliefs, values and norms it is no longer defined simply by geography, with people belonging to multiple, often international communities that are based around their profession, friendship, lifestyle, religion or politics (Hoyle, 2010). Due to problems identifying and defining the most appropriate community Hoyle identifies a gap between theory and practice in operationalising the concept of community restorative justice: most restorative processes involve ‘communities of concern’, their concern is mostly around the victim and the offender rather than with the offence itself (Hoyle, 2010). The harm that is done therefore is not experienced by the community, however Hoyle uses Peck’s (1987) ideas of community-making to describe how new communities, formed around the offence, emerge (Hoyle, 2010).

## **Restorative justice practices vs. restorative justice**

Many of the processes implemented under the rubric ‘restorative justice’ have been argued to only use restorative *practices* and not actually engage in restorative *justice* (Hoyle, 2010). This is particularly the case within the youth justice system in England and Wales where it is predominantly used for first time offenders and minor offences, when it is employed there is little victim engagement (O’Mahony, 2012:87). Furthermore, victims and offenders do not, in practice, participate in a collective process of resolution whereby the victim has a say in reparation: often the victim will only attend the meeting to describe the effects of the offence and Youth Offending Team members will already have prepared the outcome agreement before the meeting itself (Sherman, Strang *et al.*, 2008). Hoyle provides a helpful definition to distinguish between restorative justice and restorative justice practices; in restorative justice there is ‘dialogic process’ between the victim and the offender, this dialogue does not have to be face-to-face (it can form a type of shuttle mediation) but it has to be dynamic, the two parties have to engage in conversation with each other, it is not monologue (Hoyle, 2010). Restorative justice practices might be motivated by certain restorative aims i.e. to recognise the unique status of the victim and allow the victim some participation in the process, or to aim to restore a sense of safety in the community. However, they lack the victim-offender dialogue that true restorative justice provides (Hoyle, 2010). Whilst McCold’s typology (Figure 1) distinguishes between practices that are fully, mostly or only partially restorative it offers no guarantee that actual practices are restorative (McCold, 2000). Indeed “too many schemes claim to be examples of restorative justice but which fail to meet its key values” (Morris, 2002). This, Morris argues can lead to criticisms against restorative justice which are often levied against particular programs that are not based on restorative justice values and principles (2002).

The problem of differentiating between restorative justice and restorative justice practices also highlights a problem with the way restorative justice has been implemented into public policy. Muncie notes that the implementation of restorative principles throughout Europe is flawed in that instead of different policies converging under the same philosophy, justice systems remain composed of different parts. He therefore questions how some of the principle aims of restorative justice - dialogue, negotiation, conflict resolution and restoration of the community - can be achieved when restorative justice “is co-opted into systems otherwise driven by punitive, authoritarian rationales” (Muncie, 2009). It is therefore important to pay attention to the different histories, political and social structures of countries where restorative justice used and how restorative justice is implemented (Morris, 2002, Cunneen, 2010). For example, in England and Wales where restorative justice practices are used part of a range of diversion schemes critics have argued that



restorative justice is responsible for net-widening and extending police powers (Morris, 2002, Goldson and Muncie, 2006). However Morris counters that in New Zealand family group conferencing is seen to curtail police powers: youths cannot be sent directly to court, they must first be referred to a family group conference (Morris, 2002). Therefore, jurisdictions that have managed to incorporate restorative justice more fully into their criminal justice systems (principally New Zealand and Northern Ireland) enable restorative justice to be a more credible sanction (Hoyle, 2008).

### **The limits of restorative justice**

It is valuable to note that despite restorative justice having many potential benefits there are also some limitations. Daly explains that attempts to achieve ‘justice’ are a “fraught and incomplete enterprise”: whilst it is imperative to strive to attain justice, it can never be achieved (Daly, 2006). Some of the limitations of restorative justice have already been discussed in this chapter, including issues relating to the lack of an uncontested definition and problems created by setting retribution and restoration as oppositional terms. In order to draw on further limitations this section examines issues specifically in relation to the victim, the offender, and the offence.

It is important to recognise that victims experience crime differently: “the ‘victim’ is not a homogeneous character singularly created out of his or her experience of crime” (Cunneen, 2010:135). Firstly, not all victims want to be involved either in restorative justice or criminal justice: victim surveys highlight that many victims do not report crimes. Those who do report a crime are not necessarily seeking formal state intervention; many of the reasons why victims report a crime are unclear and not necessarily framed around a need for ‘justice’; often their report may stem from little more than a sense of duty (Wemmers and Cyr, 2004). Some victims report a crime because they want protection, they want the offender to stop or they want to see the offender punished. Others report the crime in order to receive compensation or make an insurance claim (Wemmers and Cyr, 2004:263-4). This raises the question whether victims necessarily want active involvement in the criminal justice system and to be given a say in decision making, or whether some victims are content with more passive forms of participation, for example to be given information and consulted throughout the process (Wemmers and Cyr, 2004, Wemmers, 2009).

Daly highlights that the heterogeneous nature of victimhood means some victims may suffer high distress from the crime, whilst others experience low distress: victims of personal crime, violent offences or when the offender was known to the victim are more likely to suffer high distress (Daly, 2006). The character and experience of victimisation impacts on what victims hope to achieve from a restorative justice process and Daly argues that

restorative justice (or indeed any legal process) is unlikely to assist victims who have been more deeply affected by the crime and experienced high levels of distress (Daly, 2006). She cautions for the need to expect more modest results, and not the 'nirvana' story of restorative justice: these often are heavily reliant on either the victim or the offender's capability to respond empathetically to the situation (Daly, 2006).

The involvement of victim's participation in the criminal justice system has been critiqued. Ashworth (2000:200) argues that decisions relating to offenders should not "spill over into areas of public interest". He cautions against victim's involvement in relation to offender sentencing (Ashworth, 2000). Whilst Cavadino and Dignan (1997) posit that both victims and offenders should have a say both in the nature of reparation and the form in which it should take, Ashworth warns that more substantial parameters need to be defined and that vagueness in relation to proportionality may lead to unfairness (Ashworth, 2000:195). Further critique relates to the potential unfairness for the offender's outcome to be based on victim characteristics, Ashworth asserts that offenders should not be punished for any unforeseen consequences to the victim. Furthermore there is the potential that disparity in outcomes may exist for offenders whose victims choose to participate and those who do not (Ashworth, 2000). However, Daly proposes that when victims and offenders are involved in decision-making they believe the restorative process to be fair, and express high levels of procedural justice (Daly, 2006). What is of more concern to Daly is that whilst fairness is relatively easy to evidence and achieve, a limit of restorative justice is the difficulty in evidencing levels of restorativeness (Daly, 2006). Furthermore, Daly argues that restorativeness is reliant on the ability to think empathetically and to understand other's perspectives: there are concerns that adolescents lack the capacity to do this, yet restorative justice is a mainstay of youth justice. Victim encounters may therefore be less likely to provide restoration if their offender is a youth, compared to an adult.

A final point of concern specifically in relation to victims is that the movement towards restorative justice is lacking clarity in terms of the benefits to the victim: it is important that victims are not misled by promises of healing when ultimately their presence may be for the benefit of the offender (Wright, 2002). There is concern that victims involvement in criminal justice may have metamorphosed from the previously challenged 'court fodder' towards an equally problematic 'agent of offender rehabilitation' (Ashworth, 2000:199).

Some of the limits in relation to offenders have been briefly mentioned in this chapter; namely voluntariness of offenders to take part in the restorative process and potential for coercion to admit guilt. However, due to their importance in relation to police-led restorative practices it is worth exploring these issues in more detail. Whilst restorative justice is

theoretically a process that victims and offenders voluntarily enter into, in practice the victim can refuse to attend: whereas the offender may feel pressurised due to the weight of alternative sanctions; this is particularly problematic for young people (Cunneen, 2010). Chapter Three highlights sanctions, such as youth referral orders, that have been heavily criticised due to the lack of voluntariness available to the offender. One of the proposed strengths of restorative justice is that it is only involved in the penalty stages of an offence and is concerned with “what shall we do”, rather than the investigatory stage focusing on whether a crime did or did not occur: and if so, considering if the offender is - or is not - guilty (Daly, 2006). However, this idea of restorative justice fails to acknowledge that in practice police officers can be involved in the process of determining guilt and may employ coercive techniques and tactics in order to elicit a guilty plea (Cunneen, 2010:146). It is vital to ensure that the non-coercive principle of restorative justice is upheld, particularly in relation to offenders. United Nations basic principles on the use of restorative justice states that ‘restorative processes should be used only ... with the free and voluntary consent of the victim and the offender. The victim and the offender should be able to withdraw such consent at any time during the process.’ (UN, 2000, para 7). Further issues in relation to police officers’ role in restorative practices will be discussed in more detail in Chapter Four.

One further issue concerning the limits in relation to offenders is the need to recognise that some offenders may lack the skills in order to provide the necessary narrative a restorative justice encounter demands. This applies particularly to young offenders, although it can also affect offenders with learning disabilities, mental health issues and/or substance misuse problems (Cunneen, 2010). As discussed earlier in this chapter, receiving a sincere apology is often more important for victims than material reparation (Strang, 2004), however, expressing an apology in a sincere way is a complex undertaking. Daly demonstrates that there is frequently a mismatch between victims’ and offenders’ perceptions: despite the offender genuinely being sorry and expressing an apology, the victim does not believe it to be genuine (Daly, 2003). This Daly argues is due to ‘communication failure’ and ‘signal gaps’: the offender lacks the necessary communication skills to fully articulate their remorse (Daly, 2003; Daly and Campus, 2005; Daly, 2006).

A final issue salient to this debate is the need to acknowledge the impact of inequality and prejudice on the process, and therefore on the outcome: whilst the offender may be a skilled communicator, structural inequalities and power dynamics including class, gender, and ethnicity are still as prevalent within restorative encounters as they are with other justice encounters. Issues of gender, class and race may affect the way in which the offender’s narrative or body language is interpreted (Cunneen, 2010:149). Despite early claims that restorative justice had the potential to reduce social hierarchies (Braithwaite and Mugford,

1994) research is beginning to highlight that social inequalities still persist in restorative justice settings and to pay attention to the sociological phenomena and consider the meaning of race and gender issues (Daly, 2000a, Braithwaite, 2002b, Alder, 2003, Cook, 2006). Alder, discussing the impact of this specifically in relation to gender argues this lack of focus implies that processes including decision-making and outcomes of restorative activities will be the same for both boys and girls (Alder, 2003). Conversely, Alder proposes that in practice gender norms and societal expectations impact on both the decision-making process and the outcomes for girls and women (Alder, 2003). It is therefore important to recognise that interactions within restorative justice processes occur within the social structures of the participants, issues of class, gender, and ethnicity are all prisms through which restorative justice takes place (Cook, 2006).

Considering these limitations further this section will move on to consider limitations in relation to specific offences. Despite mostly being used for low-level offences and first time entrants to the criminal justice system, restorative justice is potentially more beneficial when used for more serious crimes (Shapland, Robinson *et al.*, 2011). However, the use of restorative justice for some crimes has been problematised for failing to take into account the special characteristics in relation to some crimes (Cunneen, 2010). In relation to this case study<sup>5</sup> it is most relevant to consider the debate surrounding domestic violence and sexual assault and consider the arguments for and against the use of restorative justice for these offences.

There are important differences to consider when seeking to apply restorative justice to these offences. Gendered acts of violence such as domestic abuse are not isolated acts but part of a wider strategy of coercion and control, whereas restorative justice is generally used for discrete offences (Herman, 2005, Cunneen, 2010). Furthermore, unlike traditional restorative practices which were initially developed for other offences, i.e. property offences, where no stigma was attached to the victim Herbert argues that for domestic violence and sexual assault offences it is the victim who needs to be at the forefront and it is of great importance that the community shows their support towards the victim, and joins together to condemn the actions of the offender (Herman, 2005:598). Herman cautions that the restorative justice model's reliance on community standards is likely to fail unless accompanied by active feminist leadership and extensive community organisation to create the community support desired: ultimately community standards, whether it be of tribal,

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<sup>5</sup> This section focuses on domestic violence and sexual offences rather than other crimes such as hate crime due to the use of restorative justice for domestic violence by the force as outlined in Chapter Six and the cultural barriers relating to its use for serious offences as discussed further in Chapter Eight.

indigenous or highly westernised modern societies, “are the standards of patriarchy” (2005:598).

There is divergence in academic thought on the suitability for using restorative justice for domestic violence and sexual offences. Cossins assesses that the impact of restorative justice is limited and victims would be better served by greater efforts being placed on legal reforms (Cossins, 2008). Conversely Daly argues that legal reform provides only a modest gain for victims hence more research and evaluation into alternative restorative justice practices should be pursued (Daly, 2008:557). McGlynn, Westmarland *et al* (2012) provide a useful exploratory study to develop academic understanding of victim-survivor perspectives in relation to the use of a restorative justice conference involving an adult survivor of child rape and other sexual abuse. Tentative findings from this study suggest that restorative justice in cases of sexual assault should be considered a possibility with the empirical data indicating that the use of restorative justice conferencing may help give voice to victims and empower them to ‘name their own experience’ (Kelly, 1988). For the victim-survivor in this study restorative conferencing presented an opportunity for her story to be heard and the conference proved to be a ‘turning point’ for her.

Lessons learned from this case study reveal that the strength of victims should not be underestimated (McGlynn, Westmarland *et al.*, 2012:229). It is argued, that in principle, if restorative justice is to be truly victim-centred then it needs to provide and allow for a range of options to meet the diverse needs of victims. However, McGlynn, Westmarland *et al* also stress the additional resources needed for cases such as this, and the importance of risk assessment, pre-conference planning and preparation, and post conference support (2012). Furthermore the expertise and training of personnel involved in the process is imperative: the knowledge and experience of supporting victim-survivors of sexual assault together with the conference preparation ‘are essential to the success of any restorative intervention’ (McGlynn, Westmarland *et al.*, 2012:237).

Before summarising the limits of restorative justice it is critical to acknowledge the overlap between victimisation and offending (Jennings, Piquero *et al.*, 2012). Dignan argues against the implicit idea that victim and offender are dichotomous terms (Dignan, 2005). Victimisation surveys show that victims and offenders share many of the same characteristics (Van Dijk and Steinmetz, 1983, Braithwaite and Biles, 1984). Cunneen argues that part of the “common-sense appeal” of restorative justice is that it presents victims and offenders as “unambiguous and uncomplicated” it is therefore crucial to acknowledge that “inequality and power do not disappear simply because of a change in the legal forum” (Cunneen, 2010:161). This section has explored some of the limits of restorative justice in

relation to issues of inequality and power surrounding victims, offenders and offences. It has also considered some of the practical limitations restorative justice processes face.

## **Summary**

The history of restorative justice is crucial in that, for Western societies, victims and their needs were subsumed by the state. Many academics, as discussed above, see restorative justice as a means to ‘return’ the conflict back to the victim, the offender and the wider community. There is a call for a paradigm change, a new way of doing things. However, there is still discussion in terms of what this ‘new way’ entails. Firstly there is the issue of compatibility between restorative justice and the criminal justice system. This thesis will explore some of the practical barriers as experienced by frontline officers; however the theoretical arguments in relation to whether it should be used by police and incorporated into criminal justice sanctions cannot be ignored. There is debate in relation to the ‘origin myths’ of restorative justice, and the issues in relation to the retribution/restoration dichotomy have been problematised (Daly, 2002), however concerns still exist that incorporating restorative justice into the pre-existing criminal justice system may ‘formalise the informal’ (Matthews, 1998). Whilst some academics argue that restorative justice is incompatible with the traditional justice system, others argue that its use, particularly by police, can be beneficial and lead to wider reform (Bazemore and Griffiths, 2003). However, practical issues in terms of how restorative justice can be incorporated within the criminal justice system still remain, including whether it should be an additional option that runs parallel to formal sanctions or as an alternative disposal, and at what stage in the criminal justice process it should be offered.

This chapter explored the question of what constitutes restorative justice, including the process of victim and offender interaction, respect, dialogue and consensus decision-making that make for a restorative encounter. It further considered if the focus needs to be on an outcome that repairs harm and offers restorativeness. Academic debates questioning if restorative values can be applied to a broad spectrum of interactions, or if ‘restorative justice’ only refers to the encounters that meet at the intersections of victim, offender and community interaction were also outlined. The lack of consensus in relation to its definition, the differing arguments on the essential elements it needs to contain, and the processes it needs to take, can create confusion. This chapter has provided a synopsis of some of the key values and beliefs of restorative justice, including repairing harm, mutually agreed resolution and the need for victim and offender interaction. It is vital to examine these questions as they will be drawn on in the empirical chapters to compare police officer understandings of restorative justice. As Daly (2002) concludes, restorative justice “encompasses a variety of

practices at different stages of the criminal process, including diversion from court prosecution, actions taken in parallel with court decisions and meetings between victims and offenders at any stage of the criminal process (for example, arrest, pre-sentencing and prison release)". However, there are further issues to consider including the diverse needs and experiences of victims, and the social and cultural structures including gender and race that impact on restorative processes. This chapter has considered some of the limits of restorative justice and whether it should be offered to all victims and offenders regardless of their individual circumstances (for example age, previous offending history) or the type of crime committed.

The following chapter will explore how restorative justice has been used within the criminal justice system and its prevalence for first-time, particularly young offenders, and for less serious crimes and non-crime incidents. This chapter has raised important issues in relation to how restorative justice is understood theoretically; the next chapter will discuss the application of restorative justice within the criminal justice system in England and Wales and the use of restorative justice by police in a worldwide context. It will then move on in Chapter Four to specifically consider the practical issues in terms of implementing restorative policing in more depth.

## **Chapter Three: Use of Restorative Justice in the Criminal Justice System**

### **Introduction**

This chapter considers the ways in which restorative justice has been used by and incorporated into criminal justice. There are a vast array of indigenous or aboriginal practices which reflect restorative justice processes, and restorative approaches have been implemented and used in other circumstances, for example in schools and workplaces, however, this thesis will only concentrate on restorative justice used for crimes and incidents and its use in countries where the traditional criminal justice system is the prevailing process. It will therefore begin by exploring the broad ways in which restorative justice has been adopted and adapted within criminal justice before proceeding to examine its use specifically in relation to England and Wales. Providing a brief chronology both for its incorporation into youth justice and its use in relation to adult offenders it explores early initiatives, some of which were not defined as restorative justice but were based on restorative principles, before outlining how restorative justice is currently used. This historical overview is significant as the way in which restorative justice has been implemented throughout the wider criminal justice system impacts on police forces; both practically in relation to partnership working and also in terms of how restorative justice is understood and interpreted by those working in a range of different roles and organisations.

### **Restorative justice and criminal justice**

The first restorative justice practices are mostly traced to the early 1970s, in particular the Victim Offender Reconciliation Programme (VORP) in Kitchener, Ontario in 1974 (Peachey, 1986, Umbreit, Vos *et al.*, 2005). These were founded on Mennonite principles and focus on restoring 'the right relationships' through dialogue and exchange between the two affected parties (Zehr, 1990). Cases are referred from the court and whilst the programme slowly extended to adult offenders it was typically used for juveniles (Umbreit and Coates, 1993). VORPs are operated by not-for-profit (often church-based) organisations, not criminal justice agencies: government agencies are specifically not involved in the meeting with trained community representatives providing mediation (Woolpert, 1999:276). As the term 'mediation' took preference over 'reconciliation' Victim-Offender Mediation (VOM) programmes were introduced (Daly and Immarigeon, 1998). Over the next ten years VOM programmes spread from Canada, United States, Norway, France, Germany, Finland and England (Gehm and Fagon, Hughes and Schneider, 1989).



Other processes have continued to be introduced around the world, notably sentencing circles in Canada during the 1980s and Family Group Conferences (FGC) that were introduced to the youth justice system in New Zealand in the late 1980s and then to Australia in the early 1990s. The implementation of FGC in New Zealand is of interest as its fundamental aim was to bring about criminal justice reform. In the early 1980s New Zealand's youth justice system had reached a crisis point. Numerous different factors contributed to this crisis ranging from failures in existing youth justice policy, economic recession which led to the restructuring of public expenditure, a demand for change by the Māori population, international debates on youth justice and the influence of both the United Nations Convention on the Rights of the Child and the United Nations Declaration of Basic Principles for Victims (Morris, 2004). All these factors contributed to New Zealand's youth justice system rising up the policy agenda. There had been previous attempts at improving youth justice: the Children and Young Persons Act 1974 saw the introduction of children's boards which had intended to divert children from the courts, provide support and welfare to families and involve families and communities (particularly Māori) more in decisions about young offenders, however in practice very little changed and there was still an overreliance on arrests, courts and penal institutions. Despite numerous amendments to the 1974 Act the children's boards were generally not effective in achieving the goals laid out above (Morris and Young, 1987) and the Act was highly criticised by the Advisory Committee on Youth and Law in our Multi-Cultural Society (1983). What was needed was a new youth justice system, completely different to the previous monocultural system; one that reflected the diversity of the New Zealand population, especially the "tangata whenua" - people of the land (Morris, 2004).

Although not initially described using the term 'restorative justice', developments in New Zealand's youth justice system since The Children, Young Persons and Their Families Act 1989 are broadly compatible with restorative ideas and objectives (Morris, 2004). The six key aims of the Act are: "diversion from courts, residences, and custody; participants' involvement in and satisfaction with family group conferences; the protection of young offenders' rights; holding offenders accountable for their offending; enhancing offenders' well-being; and the cultural appropriateness of family group conferences." (Morris, 2004:268). There has been considerable international interest in the family group conferences that followed from this Act. Research by Maxwell and Morris in 1993 was critical of some aspects of the practice (for example, victims only attended approximately half of all conferences and restorative outcomes were not always delivered – usually as a failing by professionals), although with better training and resources it was thought that the scheme would flourish (Maxwell and Morris, 1993). Examining the system ten years later

Morris (2004) states that the family group conferences have developed into a successful restorative justice practice; diverting young people from courts and custody, involving offenders, victims, and their families in key decisions about how best to deal with offending and holding young offenders accountable for their actions, they have also been successful at enabling victims to put matters behind them (Morris, 2004:288). However, she expresses concerns that victims are still not involved in the conferences as much as they could be and that there has not been enough progress towards empowering Māori to deal with their own young people which is one of the key reasons the Act was established (Morris, 2004:288).

Restorative justice is also entrenched within the youth justice system of Northern Ireland. By the 1990s the relationship between the state criminal justice system and working class communities in Northern Ireland was 'fractured' (McEvoy and Mika, 2001). The perceived failure of state policing during the Northern Ireland conflict played a significant contribution in the evolution of paramilitary punishments (McEvoy and Mika, 2001). The police force was seen as ineffective and, in Republican areas, illegitimate, thus creating a 'policing vacuum' (McEvoy and Mika, 2002). Paramilitary violence as a form of local social control emerged as communities demanded something be done about crime and anti-social behaviour and relied on paramilitaries to dispense this swift and visible 'justice' (Brewer, Lockhart *et al.*, 1998, McEvoy and Mika, 2002). As part of the Peace Process under the Belfast Agreement of 1998 a review group was set up to undertake a "wide-ranging review of criminal justice (other than policing and those aspects of the system relating to emergency legislation) to be carried out by the British government through a mechanism with an independent element, in consultation with the political parties and others" [The Belfast Agreement, 1998: Policing and Justice, paragraph 5]. The Review of The Criminal Justice System in Northern Ireland was published in March 2000 and included recommendations for change across the criminal justice system. Overall, 294 recommendations were made across a broad range of areas (Criminal Justice Review Group, 2000). Although there had been no specific request to consider restorative justice and its application in Northern Ireland, the Review Group commissioned a report on Juvenile Justice (O'Mahony and Deazley, 2000) and drew extensively on the recommendations it made for restorative justice conferencing in its final review. Crucially, it was recommended that restorative justice be fully incorporated within the criminal justice system and that there be a very clear statement of philosophy in relation to the purpose of the juvenile justice system and what it hopes to accomplish (O'Mahony and Deazley, 2000). The Criminal Justice Review Group Report (2000) recommended that "restorative justice should be integrated into the juvenile justice system and its philosophy in Northern Ireland ... based in statute"(Group, 2000:205). From 2002 Northern Ireland youth justice legislation framework has followed a restorative paradigm

(McVie, 2011) with The Criminal Justice (Northern Ireland) Act 2002 seeing restorative justice being placed at the heart of the new youth justice system (O'Mahony and Campbell, 2006).

This new youth justice system in Northern Ireland is described as more enlightened and potentially more progressive (Muncie, 2011). Northern Ireland has adopted a more inclusive approach to youth justice, with a strong emphasis on human rights and practices (McVie, 2011). There is specific reference to the 1989 UN Convention on the Rights of the Child (UNCRC) principles involving the adoption of a 'whole child' approach to policy/service delivery, incorporating children's views and the progression of children's rights, and using the UNCRC to guide and inform – all of which is in sharp contrast to England's approach to youth justice (Muncie, 2011). However, Convery *et al* (2008) are critical that the Justice (Northern Ireland) Acts 2002 and 2004 have failed to explicitly recognise children's rights in policy and practice including the principles of the child's best interests (UNCRC Article 3) and the separation of children from detained adults (UNCRC Article 37c; Beijing Rules 26 and 27; Havana Rules 29 and 38-55). It is also suggested that care needs to be taken to ensure that "outcomes identified in NI's strategy for Children and Young People (*Our Children and Young People – Our Pledge*) apply to all children and young people, including those in conflict with the law" (Haydon, 2009). Furthermore the Criminal Justice Review 2000 has been criticised for failing to increase the minimum age of criminal responsibility (Convery, Haydon *et al.*, 2008) in accordance with UN recommendations (2002) Despite these criticisms Northern Ireland's inclusive approach is in sharp contrast to that of England and Wales which lacks the 'orienting' vision that Northern Ireland has (McVie, 2011). It is significant that restorative justice policies in Northern Ireland are connected to local needs: community-based restorative justice projects were established and operated independently of the state. This, Hoyle argues, is why they have been more effective as "they had a greater organic connection to localised processes and participation" (Hoyle, 2010). Overall 'the 'troubled', dynamic and complex political context [in Northern Ireland] ... has had a unique effect' (Muncie, 2011), this combined with the voluntary sector's involvement in delivering youth justice provision at a community level has given Northern Ireland its own 'distinct character' (Goldson, 2004) compared to youth justice systems operating in the rest of the UK.

### **The criminal justice system in England and Wales**

The two overarching aims and strategic objectives of the criminal justice system as stated by the Home Office (2000) are firstly: "to reduce crime and the fear of crime and their social and economic costs." This involves reducing levels of crime and disorder, reducing the

impact crime and disorder has on people's lives, and reducing the economic costs of crime. Secondly: "to dispense justice fairly and efficiently and to promote confidence in the rule of law." This involves ensuring just processes and effective outcomes, that cases are dealt with at appropriate speed, the needs of victims, witnesses and jurors are met, defendants' rights are respected and they are treated fairly, and to promote confidence in the criminal justice system. (Windelsham, 2001). Marshall argues that although the primary objectives<sup>6</sup> of restorative justice might be similar to those already set by the criminal justice system the reality is that in the current system the objectives of restorative justice are only partially and haphazardly achieved (Marshall, 1999). Of central concern is the lack of attention to the needs of victims, the programmes; schemes that are in place tend to be aimed at diversion of offenders from the criminal justice system, yet there is limited action in relation to the reintegration of offenders. Furthermore, activity does little to encourage community involvement (Marshall, 1999). The criminal justice system in England and Wales therefore not only lacks the statutory basis for restorative justice that exists in other systems as described above, but the way in which restorative justice has been introduced into the system lacks intention, operating in a passive way without the full involvement and inclusion of victims, offenders and the community.

Restorative justice has predominantly been incorporated into the youth justice arena, although there are examples of restorative justice being used in the adult criminal justice system (Shapland, Robinson *et al.*, 2011). Due to the differences in the way that restorative justice has been incorporated and used within the criminal justice system in England and Wales in relation to young people and adults this section will first focus on its use within a youth justice arena before moving on to discuss how it has been used for adult offenders.

### **Youth justice**

Restorative justice literature tends not to concentrate on why restorative justice programmes and policies are mostly adopted within youth justice, merely acknowledging that "the starting point for change in most countries has been their youth justice system" (Van Ness, Morris *et al.*, 2001). The reasons why restorative justice has only been mainstreamed in youth justice requires more consideration. Moore states that "juvenile justice has been the testing ground for criminological theory" (Moore, 1993). Morris argues that a separate justice system for youths exists because "children are not yet seen as full citizens" (Morris,

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<sup>6</sup> Marshall defines the objectives of restorative justice are: to attend fully to the victims' needs, to prevent reoffending through reintegration, to enable offenders to take responsibility, to avoid the escalation of legal justice and for the community to support the rehabilitation of offenders Marshall, T. F. (1999). *Restorative justice: An overview*. London, Home Office Research Development and Statistics Directorate.

2004). This highlights one of the many dichotomies in youth justice: young people are considered as less than adults, both in capability and judgement (Brown, 2005). Yet punishment of young people involves responsabilisation: they have to ‘face up to the consequences of their actions’ (Goldson, 2000). There is an erosion of children’s rights which are now seen as part of a ‘simplistic transactional relationship’ with responsibilities (Convery, Haydon *et al.*, 2008). Fundamentally, children are seen as ‘others’ and are treated differently, as lesser citizens, with a different justice system, different punishments and different rights. Criminology itself is argued to have enforced conceptions of ‘youth-as-problem’ and throughout much of the 20<sup>th</sup> century has ‘focused overwhelmingly on youth and crime’ (Brown, 2005). This has led to what Brown argues is an obsession with ‘the youthful offender and his (sic) punishment’ (2005). There is less attention to middle-aged or elderly offenders and as such the majority of policy/political campaigns have focused almost exclusively on this ‘youth crime problem’.

Youth justice has seen many transformations in a relatively short period of time: “the last 30 years have been a period of renegotiation, adjustment and repositioning in the power structure of Great Britain, in criminal justice and more generally” (Faulkner and Burnett, 2012). However, unlike New Zealand or Northern Ireland youth justice approaches in England and Wales lack a specific philosophy or approach, and instead comprise an ‘eclectic mix of policies and interventions’ from just deserts, welfare, restorative and actuarialism paradigms (McAra, 2010). The majority of the 20<sup>th</sup> century in England and Wales saw youth justice dominated by a welfarism doctrine which argued for age and family circumstances to be taken into account; that young offenders had reduced culpability compared to adults and as such needed to be dealt with by a separate juvenile justice system. However, welfarism was never used as a replacement for a punitive system (it still sent child offenders to borstals, detention centres and secure training centres) and instead was used to justify early intervention with children considered to be ‘at risk’ and so widening the net to encompass more children and young people (particularly girls and young women) into the criminal justice system (Goldson and Muncie, 2006). The period of welfarism culminated in the Children and Young Persons Act 1969 which promoted welfare over criminal proceedings, and emphasised that juvenile courts should be an ‘agency of last resort’ (Rutter and Giller, 1983). However, before the Act was implemented there was a change of government and the new Conservative administration chose not to implement significant sections of the legislation.

The following period saw the development of what is now regarded to be a more ‘liberal’ long-term strategy: acknowledging that the criminal justice system could only have a limited impact on general levels of crime. Other programmes (such as those which gave greater

recognition and support to victims, those which paid more attention to racial discrimination and disadvantage and those which were aimed at crime prevention) were developed to prevent and reduce crime and improve public confidence (Faulkner and Burnett, 2012). In order to deal with the rising prison population ministers decided to exert downward pressure which included reducing sentences for those not regarded as a threat to society (Faulkner and Burnett, 2012). David Waddington, Home Secretary at the time quoted from the white paper, (1991) arguing that prison was ‘an expensive way to make bad people worse’. This oft-cited quote demonstrates the political mood swaying from ineffective and expensive custodial sentencing policy towards more effective rehabilitation options for offenders. The culminating policy was the Criminal Justice Act 1991: custody was deemed necessary only for serious violent, and sexual crimes, and it was believed that the public would be better protected through more effective rehabilitation of offenders.

However, 1992-93 saw a dramatic change of public and political mood (Faulkner and Burnett, 2012). The system that followed the Criminal Justice Act 1991 was based on justice, control and punishment; The “Misspent Youth” report 1996 by the Audit Commission criticised the youth justice system for being too costly, inefficient and ineffective. This and the change from a Conservative to a Labour government in 1997 paved the way for a ‘new youth justice’ (Goldson, 2002) arguably based on increased intervention, surveillance and a ‘get tough’ punishment scheme (Brown, 2005). It was also during this period that restorative justice principles in the youth justice system were proposed by the New Labour government. The 1997 White Paper *No More Excuses: A New Approach to Tackling Youth Crime in England and Wales* placed an emphasis on three ‘R’s: responsibility, restoration and reintegration which are key restorative justice principles. The first Act to firmly establish restorative justice in the youth justice arena in England and Wales was the Crime and Disorder Act 1998. This replaced police cautions and introduced ‘reprimands’ and ‘final warnings’ to a young person who has committed an offence (youth being defined as age ten to seventeen). This scheme replaced previous cautions as a pre-court intervention and was specifically aimed at providing a clear framework to limiting the number of times a young person could receive a caution. A reprimand was to be the response to a first offence, a final warning to a subsequent offence. Any further offences were then to be prosecuted. Reprimands were to be issued to the offender by a police officer, with a suitable adult present. Final warnings, ideally, should form part of a ‘final warning clinic’ held after the offence whereby the victim and offender and their parents or guardians would be invited to attend a restorative-based structured discussion facilitated by a police officer. The Crime and Disorder Act 1998, in theory, exhibited some restorative principles; for example, placing an emphasis on the young person taking responsibility for their crime as

well as providing power to the courts to impose reparation orders and action plan orders on young offenders. However, some practical aspects were problematic including the lack of training for police officers giving the final warning and reprimand, the lack of timely information held on previous offending (information that was held was often not up-to-date), and studies found in some areas young offenders were appearing before the court without previously receiving a reprimand or final warning (Cap Gemini, 2003). Reprimands and final warnings were both abolished under the Legal Aid Sentencing and Punishment of Offenders Act 2012 and replaced with youth cautions which will be discussed in more detail later in this chapter.

Following on from the implementation of reprimands and final warnings the Youth Justice and Criminal Evidence Act 1999 saw the creation of a 'Referral Order' a mandatory sentence for all 10 - 17 year olds, convicted of a first offence who admit guilt. Central to the referral order is the use of youth offender panels comprising two volunteers from the community and a member of the youth offending team whose role is as an advisor to the panel. The panels operate on restorative principles of responsibility, reparation and reintegration and their introduction saw restorative justice being mainstreamed into the criminal justice system. Offenders, victims and their supporters meet to discuss the offence, using a scripted method. Following this the panel members and the offender produce a detailed plan which can include reparative work and interventions to address the young person's offending behaviour. However, whether referral orders constitute restorative justice has been debated due to the mandatory nature of the order which is not true to restorative justice principles. Low numbers of victims attend the panels and when they do victims and offenders rarely engage in collective discussion around what should be done to repair the harm caused by crime (Sherman, Strang *et al.*, 2008).

In addition to the reprimand, the final warning and the referral order a further restorative-intervention; the Youth Restorative Disposal was introduced. Initially launched in a series of pilot areas in England and Wales in 2008, it is an alternative to arrest that aims to provide a quick and effective way for police to deal with low level anti-social and nuisance behaviour. It also offers more discretion to police officers and Police Community Support Officers (PCSOs). A Youth Restorative Disposal can only be used for non-serious crimes, where the offender and victim agree to participate and may only be offered to a young offender once, and only if he/she has not previously received a reprimand, final warning or caution (Rix, Skidmore *et al.*, 2011). An evaluation of Youth Restorative Disposals found their greatest strength was that they allowed police officers to apply a more appropriate and proportional response, this was deemed to offer greater satisfaction to the victims (Rix, Skidmore *et al.*, 2011:5). It also potentially saved officers an enormous amount of time: based on estimates

from some of the pilot studies a reprimand, due to the need for arrest and taking into account time spent in custody, would take approximately eleven hours of police time: whereas a Youth Restorative Disposal conference would take approximately two and a half hours, and an instant 'street' disposal even less; taking approximately one hour to complete (Rix *et al*, 2011:5-6). The time taken to carry out a Youth Restorative Disposal had a positive impact on the sanction's popularity amongst police officers. The majority of Youth Restorative Disposals took place instantly, on the street, and mostly entailed a verbal apology from the offender to the victim. It is argued that in reality there is little to suggest that Youth Restorative Disposals "involve any significant restorative intervention or process" (O'Mahony, 2012:92). O'Mahony argues that they are simply another mechanism for police officers to instantly deal with low level offending (2012:92) albeit one that was believed by practitioners to be beneficial for reducing the number of first time entrants into the criminal justice system (Rix *et al*, 2011:27).

Despite changes under New Labour and the adoption of some restorative practices, as discussed above, many elements of the youth justice system - despite Government claims - were counter to restorative justice principles. The wider picture shows England and Wales continued to see a rise in punitiveness and penal populism and the implementation of punitive policies, especially towards young people that increasingly violated their human rights (Bottoms, 1995, Braithwaite, 1999, Goldson and Muncie, 2006). The prison population had continued to increase, hitting record highs with the number of young people in prison increasing by 66% between 1998 and 2003. In 2003 the Audit Commission's review of the youth justice system in England and Wales found that 'public concern about youth crime remains high and public confidence in the youth justice system is low' (Renshaw, 2003). O'Mahony argues that despite victim's rights being promoted in the political agenda the reality shows there has been very little development of restorative justice within youth justice in England and Wales (2012:87). It is difficult to understand how the development and delivery of restorative justice has failed to materialise, O'Mahony identifies the main obstacle as being a "lack of commitment to fully embrace the core principles of restorative justice" (2012:87).

More recent changes in the UK political landscape in 2010 saw a move from Labour to a Conservative/Liberal Democrat coalition government. At the same time numerous factors also came to a head – the financial impact of the global economic crisis has resulted in severe cutbacks across the public sector and an urgent need to review the expensive and unsustainable rise in the prison population. A review by the Commission on English Prisons Today: Do better do less (2009), points to the unsustainable demand for prison despite the falling rate of criminality. The Commission provides a framework based on localism; it



argues that communities are feeling disempowered by centralism and highlights a range of innovations, both in the United Kingdom and in America, which show justice can be delivered more efficiently at a local level. Two policies are outlined as providing a means to deliver a change, not just within the Criminal Justice System but outside it too. The policies proposed by the Commission were justice reinvestment; it proposed to redirect the vast sums invested in criminal justice towards initiatives that would have a positive impact by increasing community safety and reducing the number of crimes; and restorative justice which is seen as a ‘natural complement’ to justice reinvestment due to its ability to divert offenders away from the criminal justice system and its potential impact on reconviction rates (2009).

Additionally in 2010 the structure of youth justice in England and Wales was reviewed by the Independent Commission on Youth Crime and Anti-social Behaviour. The Commission criticised the incoherence of law and practice in England and Wales and recommended that “restorative justice should become the standard means of resolving the majority of cases” (Independent Commission, 2010). The new coalition government vowed to place restorative justice at the ‘heart’ of the criminal justice system (Herbert, 2011<sup>7</sup>). The Ministry of Justice released a Green Paper in December (2010), titled ‘Breaking the Cycle’ proposing to give the victim a more central role, and making a commitment to increasing the range and availability of restorative justice approaches particularly in relation to the promotion of restorative justice as a diversionary approach, both for young people and adults, committing low level offences (Ministry of Justice, 2010). However, it should be noted that there has already been reductions in the number of young people entering into the criminal justice system: Smith outlines the substantial falls in the arrests, the number of reprimands, final warning and conditional cautions and the number of first time entrants into the youth justice system, he proposes that the dramatic reductions over the preceding five year period (from 2010/11 to 2006/07) are reminiscent of the sharp reductions in youth crime rates experienced in the 1980s (Smith, 2014). Smith explains that “the promises made in respect of diversion represented no more than a continuation of the existing line of travel” (Smith, 2014:116). Furthermore, this green paper, whilst broadly welcomed<sup>8</sup> for making a commitment to restorative approaches still lacked a bold or radical stance towards statutory reform. O’Mahony argues that improvements to provision focus on low-level offending and out-of-court disposals, and as such “the Government’s approach to restorative justice appears strong on rhetoric but it is weak on commitments that actually deliver restorative justice” (2012:105).

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<sup>7</sup> Nick Herbert (Minister of State for Policing and Criminal Justice) Speech 22/2/11 ‘Restorative Justice, Policing and the Big Society

<sup>8</sup> See response to the Green Paper by The Prison Reform Trust and the Restorative Justice Council.

## **Adult offenders**

It is essential to consider the use of restorative justice in England and Wales in a wider context, beyond that of young offenders and low-level crime. An important point raised by the Restorative Justice Council in their response to the Breaking the Cycle Green Paper is that restorative justice should be offered to all victims of crime, both on a pre-sentence basis where the offender pleads guilty and consents, and as a post-sentence option (Restorative Justice Council, 2011:12). All victims therefore should be offered the option to partake in restorative justice; the victim's options should not be limited due to the age of the offender or the offence committed (although this is still contested in relation to some crimes such as rape and domestic violence as discussed in Chapter Two).

Restorative justice has been successfully used with adult offenders: one of the largest trial schemes worldwide to assess its use was conducted in England and Wales and was evaluated over a significant period of time from 2001 to 2008, including a two year period to study reconviction rates (Shapland *et al.*, 2002, 2006, 2007, and 2008). The evaluation consisted of three restorative schemes: CONNECT, the Justice Research Consortium (JRC) and REMEDI which were supported by the Home Office under the Crime Reduction Programme. The schemes primarily dealt with adult restorative justice cases at various stages in the criminal justice system by offering victim and offender interaction, either face-to-face through conferencing, or direct mediation, or indirectly through 'shuttle' mediation. It includes some 840 restorative justice events and, importantly, included more serious offences such as burglary, robbery and violent offences. Findings from the evaluation suggest that a substantial proportion of victims did want to meet with adult offenders and for serious offences (Shapland, Robinson *et al.*, 2011:182-3). Furthermore victims were more likely to say the restorative encounter helped them for serious offences, compared to less serious offences (Shapland, Robinson *et al.*, 2011:183).

It was also found that victims benefited from the experience at all stages of the criminal justice system; whether it be pre-sentence or during the offender's sentence there was no 'wrong' stage (Shapland, Robinson *et al.*, 2011:183). However, it was recognised that a restorative process occurring pre-sentence or pre-release is beneficial both for the offender and also for the victim (Shapland, Robinson *et al.*, 2011:187). The use of post-sentence restorative justice is expanding across England and Wales: the National Offender Management Service has recently completed a programme to enable probation and prison staff to deliver victim and offender restorative justice conferencing in cases of serious violent and acquisitive crime. The programme ran from January 2011 to March 2015 and is

currently being evaluated by the Institute for Criminal Policy Research at Birkbeck, University of London.

Shapland, Robinson *et al*'s evaluation concluded that the use of restorative justice with adult offenders was successful and that in addition to a low frequency of reconviction rates, attending a restorative conference had a positive impact on the victim and they reported the encounter meeting their needs (Shapland, Robinson *et al*, 2011). Findings from this evaluation point to the need for a statutory basis for the use of restorative justice with adults: without a statutory basis only cases that have been diverted from the criminal justice system are eligible, therefore it is unlikely to be used for the most serious crimes and it is these crimes that potentially offer the most benefit to victims (Shapland, Robinson *et al*, 2011:186). Another alternative would be for restorative justice to be offered under the control and supervision of another criminal justice agency, however Shapland, Robinson *et al*, contend that there is a need to exercise caution in that there may be potential conflict of interest and precautions would need to be taken in order to ensure the neutrality of any restorative justice service offered (Shapland, Robinson *et al*, 2011:185-7).

Police-led restorative conferencing has also been used for adult offenders; specific use and implementation of these schemes, including its use in Thames Valley will be discussed in more detail in Chapter Four. Adult restorative cautions should not be confused with adult conditional cautions which have attempted to incorporate elements of restorative practices. The conditional cautioning scheme was introduced in the Criminal Justice Act 2003. Conditional cautions are to be used for low-level offending as a means of diversion. They aim to give offenders an opportunity “to make swift reparation to victims and communities” (Code of Practice for Adult Conditional Cautions 2013: 1.4) by including options for restorative processes as part of the condition process. This allows some victim input in relation to the outcome, or the conditions attached to the caution. The guidance also states that the views of the victim(s) should be ‘obtained wherever possible’, however there is a significant caveat that the victim’s views ‘cannot be conclusive’ (Code of Practice for Adult Conditional Cautions 2013:2.47). Guidance specifies that the police officer issuing the caution should consider if there are any opportunities for the offender to provide reparation or compensation to the victim or the community; however, an overarching aim for conditional cautions, as specified in the guidance, is “to punish an offender by means of a financial penalty”. O’Mahony and Doak (2009:148) suggest that the conditional caution only “pays very limited lip service to the idea of restorative justice” as they are only intended to be used in a minority of cases, that victim involvement is limited, and there is very little active victim participation and no obligation to include the victim or their views.

Provision for adult offenders to receive a restorative disposal was introduced in 2010 as part of the 'Breaking the Cycle' Green Paper (Ministry of Justice). Adult Restorative Disposals operate on the same format as Youth Restorative Disposals: they are used for low level offences, such as shoplifting, where the offender admits guilt. The disposal can take one of two forms: either a Level 1 "instant or on-street disposal where police officers or PCSOs use restorative skills to resolve conflict in the course of their duties" (ACPO, 2010) or a Level 2 restorative conference<sup>9</sup>. As with a Youth Restorative Disposal the offender does not receive formal sanctions: there is no criminal record and details are stored locally by the force. An evaluation of South Yorkshire Police force's use of youth and adult restorative disposals highlights that the Level 2 conferencing is rarely used, and there is a blurring between Level 1 and Level 2 processes (Meadows, Albertson *et al.*, 2012). It was found that the model of restorative justice had differed from its intended use resulting in a "hybrid approach which falls somewhere between the two" meaning that the resulting process is often more involved than an instant restorative disposal but does not equate to a full Level 2 conference. (Meadows, Albertson *et al.*, 2012:23). Findings from the evaluation indicate that there was potentially a lack of consistency in the way restorative disposals were being used across different areas of the force, that magistrates were concerned by the volumes and potential escalation of its use, the officers were confused in their understandings of what restorative justice entailed and how to appropriately use the disposal, and the additional bureaucracy of using restorative justice for non-crimes was raised by some front line police staff (Meadows, Albertson *et al.*, 2012).

Whilst the wholesale adoption of restorative justice into the criminal justice system is not yet forthcoming the Crime and Courts Act 2013 (Schedule 16) for the first time provides a statutory basis whereby, if the victim and the offender are willing to take part, courts can defer sentencing whilst restorative justice process takes place. The impact of this new legislation on practice remains to be seen. The first victim-led restorative justice programme was launched in December 2013 to offer pre-sentence conferences to victims with offenders convicted of acquisitive and violent crimes. Operating at ten crown court 'pilot sites' this programme enables the victim to request a restorative conference with the offender before the sentence is imposed. The Institute of Criminal Policy and Research, Birkbeck University of London are conducting an evaluation of the scheme. The pilots were believed to end April 2015 and evaluations of the project are due to be released soon. Crucially the introduction of the act is potentially a seminal moment for criminal justice in England and Wales, Doak

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<sup>9</sup> Police restorative justice Levels 1, 2, and 3 will be explored in more detail in Chapter Four.

argues that it may “act as a precursor to placing restorative justice on a more prominent and legally certain footing within the criminal justice system” (Doak, 2015:152).

The Government has set out a ‘Restorative Justice Action Plan for the criminal justice system’. This action plan covers the period from 2014 to 2018. It states the overarching vision is for “good quality, victim-focused restorative justice to be available at all stages of the criminal justice system” (Ministry of Justice, 2014:2). This includes its use as in relation to out of court disposals, pre-sentence and post-sentence and it should be available to all victims “irrespective of their location, the age of the offender or the offence committed against them (Ministry of Justice, 2014:2). The action plan addresses three areas: first equal access, that restorative justice should be available at all stages of the criminal justice system and for all victims of crime. Second, awareness and understanding; to raise awareness of restorative justice and to ensure a consistent message of what it entails and its place in the criminal justice system is available to all, including victims, offenders, the general public, policy developers, and practitioners. As part of this the Ministry of Justice recognises that there is often confusion in relation to its definition and how it fits with the criminal justice system. It is currently producing a clear definition of restorative justice to be used by all criminal justice agencies, including the police; this will be in place by November 2015. The third area the action plan addresses is to ensure good quality restorative justice is developed. This includes operating a process that is victim-focused and that all facilitators will be trained to recognised standards. The fundamental element of restorative justice in the definition adopted by the Ministry of Justice is the dialogue between the victim and the offender. Furthermore, the standards it has set for restorative justice does not include programmes where a ‘proxy’ victim is used. Recognising that there is currently ‘mixed restorative justice practice within the police’ it is developing new guidance to provide ‘greater clarity on the use of restorative justice at all stages of the process’ (Ministry of Justice, 2014:6). Further details will be provided throughout the course of the action plan as ‘the new landscape continues to bed in’.

## **Summary**

Criminal justice in England and Wales has undergone many significant shifts and changes in terms of punishment, state involvement and professionalization of the justice industry (Christie, 1977, Foucault, 1977, Cohen, 1985, Rawlings, 1999). Restorative justice has been introduced mostly in the youth justice system, although it has also been successfully used for adult offenders. However, there is a distinct tendency to use restorative justice for low-level crimes and incidents, despite research indicating its success for more serious offences. This is important as police officers deal with both young and adult offenders and with a wide-range of crimes and incidents. There is a precedent for its use in relation to youth crime;

however, the practical aspects of using it for serious crimes and with adult offenders, particularly in conjunction with other criminal justice disposals are less developed. Whilst research indicates the suitability of restorative justice for a range of incidents there is a lack of policy and procedure with regards to its use.

The chronological history of the use of restorative justice in the criminal justice system in England and Wales was detailed in order to provide the background to the wider legislative changes that occurred from the first implementation of restorative justice by the force in this case study in 2008/9 to its re-implementation in 2012/3. This period saw the election of the coalition government, and the introduction of new policies and pledges to place restorative justice at the 'heart' of the criminal justice system it also saw broader changes to the criminal justice system, including the impact of austerity measures, spending cuts, and wider reform; including changes to the probation service. This period also saw a distinct change in the nature of crime and justice across England and Wales including dramatic drops in the crime rate and also fewer numbers of first-time entrants into the criminal justice system (Smith, 2014).

This chapter also has provided a summary of the broader issues in relation to the introduction of restorative justice into the criminal justice system. It has contrasted the use of restorative justice in England and Wales with other systems including Northern Ireland and New Zealand where there is a statutory basis for restorative justice, in the youth justice system at least. This is meaningful, as the chapter has demonstrated despite its use across a wide range of areas, the use of restorative justice in England and Wales lacks the clarity of other systems resulting in mixed messages and piecemeal arrangements. Hoyle argues that "restorative justice, particularly in the UK, is fast becoming the most over-evaluated and under-practiced area of criminal justice" (Hoyle, 2010b:26).

## Chapter Four: Implementation of Restorative Policing

### **Introduction**

This third and final literature chapter focuses specifically on how restorative justice is used by the police. It begins by addressing the literature on restorative policing and its potential role in relation to bringing about reform of the criminal justice system. It then proceeds to address more specific issues in relation to the implementation of restorative justice across a police force, with particular reference to police working culture and organisational culture. Restorative policing as an opportunity for criminal justice reform raises the significance of its successful implementation: yet this is often the ‘Achilles heel’ in policy reform (Pressman and Wildavsky, 1973). This chapter will therefore explore some of the policy implementation issues identified by previous attempts at police reform, namely community-orientated policing (COP) and problem-orientated policing (POP). Restorative policing is seen as naturally progressing from these policing models and therefore much can be learned from the difficulties and success in relation to their introduction (Bazemore and Griffiths, 2003:345). Practical barriers to implementation as well as resistance to reform in the form of cultural barriers will provide the background for some of the issues raised in the later empirical chapters.

Having considered the wider literature on restorative policing this chapter moves on to consider how police forces have implemented and used restorative justice. It provides a detailed discussion on the use of restorative policing in three jurisdictions: first Wagga Wagga, Australia where it first originated, then Bethlehem, United States. These two case studies set the scene on the first introductions of restorative justice to police forces before the chapter turns to concentrate on its use in England and Wales with the Thames Valley Project. This chapter concludes by considering the recent developments in relation to restorative policing across England and Wales.

### **What is restorative policing?**

Fundamentally restorative policing prioritises conflict resolution and aims to promote community ownership over crime (Bazemore and Griffiths, 2003). The three core principles of restorative policing are to repair the harm caused by an offence, to promote stakeholder involvement in dealing with the offence and to transform the relationship between communities and police, and the criminal justice system as a whole (Bazemore and Griffiths, 2003:336-7). Its goal is to develop restorative resolutions towards crime and harm to the ‘greatest extent’ across all police functions and to promote greater ownership of crime and conflict by the community (Bazemore and Griffiths, 2003:345). Success is measured on a

‘community by community’ basis (Bazemore and Griffiths, 2003:342), and successful implementation calls for restorative justice to be so ingrained it is ‘hardwired’ into every person and every aspect of policing at both a conscious and unconscious level (McLeod, 2003: 371). It is therefore arguably not just about adopting a restorative programme but about systemic reform: it is about changing the way police officers think about crime and conflict and their response to it. Whilst restorative policing provides officers with new tools for resolving conflict, it also encourages new ways of thinking in relation to sanctions, it places emphasis on an officer’s use of discretion when dealing with an incident, and it promotes greater community involvement (Bazemore and Griffiths, 2003). However, restorative policing does not end there, for systemic reform to occur it should bring about a transformative effect within policing, changing the way police officers think about all functions relating to criminal justice: expanding further than police agencies to include all sectors of the criminal justice system (Bazemore and Griffiths, 2003).

### **Implementing new ways of police working**

Restorative policing builds on previous attempts at reform such as Community Orientated Policing (COP) and Problem Orientated Policing (POP) and is therefore seen as a being the ‘next step’ to police reform (Bazemore and Griffiths, 2003). However, these models of policing, both of which originated in the United States of America were neither easily nor fully implemented in many areas of policing, nor were they adopted across all police forces in England and Wales, often because the practice on the ground does not meet the theoretical criteria of the model<sup>10</sup>. The barriers and opportunities presented in relation to their implementation are worthy of further consideration in order to understand the policy implementation process specifically in relation to policing. Implementing police reform carries its own unique issues due to the hierarchical nature of the organisation, therefore internal cultural issues, as well as external considerations including other criminal justice agencies, government policies, and legislative issues need to be taken into account.

Fundamentally POP was about localised problem-solving; it promoted the use of officers’ discretion and aimed to provide an alternative response to policing (Goldstein, 1990). Problem orientated policing proposes a whole new way of thinking about crime and police response to crime; at its root is the concept of applying scientific principles to issues of crime and disorder (Bullock *et al*, 2006). The concept of problem orientated policing stems from attempts at police reform in Chicago police department. Goldstein (1990) defines it by the identification of specific problems identified both through the systematic analysis of data

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<sup>10</sup> Bullock *et al* 2006 found that problem orientated policing rarely met the criteria put forward by Goldstein (1990), however, ‘problem-solving’ was still taking place, albeit with less emphasis on the analytical and assessment processes.



and from engagement with the community to hear their concerns. The response to this involves tailor-made solutions that go beyond standard responses and are imaginative, make full use of police officers' skills and expertise, and are informed by good practice. POP paved the way for the current drive towards Evidence Based Policy and Practice (Bullock *et al*, 2006) and also reinforced the message that criminal justice system response to crime and disorder is often limited: a wider partnership approach that includes the community to tackle the root cause of problems is crucial (Goldstein, 1990).

Its use in England and Wales was linked to a broader government strategy on effective reduction of crime and disorder which built on National Intelligence Model and a focus on intelligence-led policing and the harnessed the concepts of best value using the deployment of officers and use of resources for maximum effect (Audit Commission Reports – Tackling Crime Effectively 1996, What Price Policing? 1998). Part of this targeting towards the root causes of crime and disorder was a recognition that police could not solve them on their own: it required 'joined up thinking' and partnership working with other agencies, the legislation for which was set out in the Crime and Disorder Act 1998. Therefore, whilst POP experienced problems in relation to its use, particularly in relation to resistance by police officers it benefited from a wider government agenda that supported its use and from statutory legislation compelling its use. Despite this external support implementation issues still remained, Bullock *et al's* (2006) assessment of individual problem-orientated policing projects submitted for the National Tilley Award Scheme demonstrates how some forces developed problem-oriented policing over time, however, the implementation of problem-orientated processes remained 'patchy' with not all elements of POP given the same importance (for example, more focus was placed on problem-solving elements rather than comprehensive evaluation).

Similar to restorative policing COP is seen as both an organisational strategy and a philosophy (Trojanowicz & Bucqueroux, 1990); it reflected a shift in power to neighbourhood groups, promoting the public's involvement in generic issues (for example Police and Community Together (PACT), which is about the public setting police priorities at a local level) due to the belief that safer communities involved community and police working together to resolve issues (Goldstein, 1990). It was also seen as a rejection of the technocratic professionalism; whilst improvements in technology were seen as successful in reducing crime the removal of the 'bobby on the beat' this model of policing did little to reassure the public, hence an increase in the fear of crime despite falling crime rates (Waddington, 1999; Innes, 2004). COP was seen as a process not a product, and was based on citizen involvement, problem-solving and decentralisation (Skogan, 2006:28). In addition to these three areas Thurman *et al* also argue for the inclusion of a fourth element: that COP

aims to bring about a change in the internal organisation and culture of a police force where employee input is valued (2001:8). COP therefore was a challenge to police forces and requires a transformational shift both internally within the organisation and externally in relation to the way that the police interact with the public. However, there are issues both with the attempt at reform (which will be discussed in more detail later in this chapter) and with the COP model, particularly in relation to the ways in which the community were included and involved in policing: mostly at a low level and predominately it involved consultation rather than collaboration. Fundamentally, however, community policing in general has expanded to include multifaceted and diverse elements (with other elements of policing i.e. broken windows policing, partnership working, problem-orientated policing often encapsulated under the community policing banner) leading it towards being ‘all-things-to-all-people’ (Mastofski, 2006).

Restorative policing shares some of the same values and builds on COP, taking the idea further so that communities are not just involved generically, but they are actively involved and have a decision-making role at a case level (Bazemore and Griffiths, 2003:303). Whilst COP failed to build community capital (Bazemore and Griffiths, 2003:327) restorative policing brings with it a set of ‘tools’ or ‘levers’: it is these additional tools that can help build social capital where other programmes such as POP and COP have failed (Bazemore and Griffiths, 2003:337). The levers offered by restorative policing go further than involving the public to determine police priorities: it allows citizens to be involved in informal sanctioning. Traditionally the preserve of courts and professionals, restorative policing engages with the public at a deeper level giving them a “case-level decision-making role” in the justice process (Bazemore and Griffiths, 2003:338). The techniques of restorative conferencing are key as it is this process that “promotes collective community ownership of the resolution” (Bazemore and Griffiths, 2003:338). It is the community involvement in restorative policing that Bazemore and Griffiths argue possesses “both the greatest challenge and the greatest opportunity for transformative systemic impact” (Bazemore and Griffiths, 2003:343).

### **Systemic reform**

In addition to the new tools that restorative policing brings it also provides a new framework, with an emphasis on restorative values and the creation of new roles and expectations that are fundamentally different from traditional practices and thinking about crime and disorder (Alarid and Montemayor, 2012: 458). In many ways COP and POP helped develop the attitudes and new ways of thinking necessary to create wider reform: more community involvement, a wider focus on problem-solving and a wider recognition that the criminal justice system is not always best placed to deal with crime, disorder and

wider social problems. Restorative justice holds many similar values, however, the emphasis on community involvement and a holistic approach across all areas of policing highlight the need for systemic change within an organisation.

One of the substantial areas that is sometimes overlooked when describing the implementation of restorative policing is the role that communities play in the process (Clamp and Paterson, 2013, Paterson and Clamp, 2012, McLeod, 2003). Pranis and Bazemore argue that the implementation process must be based on restorative principles; they argue: “victims must have a voice, the community must be involved” (Pranis and Bazemore, 2000:32). Transforming the relationship between communities and the police is a core principle of restorative policing (Bazemore and Griffiths, 2003). In order for substantive (not merely cosmetic) change to occur then *all* stakeholders, including the community, and practitioners must have a “clear understanding ... of the philosophical underpinnings of the [restorative] approach” (Pranis and Bazemore, 2000:32).

Whilst it is crucial that implementation must be bottom-up and not top-down both in terms of involving the community and police officers in the implementation process (Clamp and Paterson, 2011, Marks and Sklansky, 2012) this is often not the case in practice. The role of community has been neglected in the implementation of restorative justice in the criminal justice system in relation to the introduction of restorative policing in England and Wales: it has been implemented by top-down mandate and is neither connected to local needs nor operated in ways that take into account localised processes (Hoyle, 2010, Muncie, 2011). The recent introduction of neighbourhood justice panels in England and Wales is a case in point. Introduced as part of the Government’s ‘big society’ it is unlikely that the top down nature of funding for panels capacitates their ability to be tailored to community needs (Clamp and Paterson, 2011), the model employed is in direct contrast to the bottom-up implementation of neighbourhood justice panels in Northern Ireland (Eriksson, 2009).

Clamp and Patterson question whether a top down process commissions genuine ‘desire’ from the local community, or motivates community members to “take on responsibility for things that have traditionally been the domain of national government policy” (Clamp and Paterson, 2011:22). Arguing against the top down process Pranis and Bazemore advise spending energy where there is a pre-existing interest in restorative approaches in order to achieve ‘the most impressive results’ (Pranis and Bazemore, 2000:32). However, in order to achieve the goal of systemic reform through restorative policing then it is imperative to conceptualise and make available to the police, victims, and the community, a wide-range of responses to incidents that are based on restorative principles (Bazemore and Griffiths, 2003:340). This technique, involves more than one or two restorative responses or programs;

Bazemore and Griffiths argue that communities need to be ‘saturated’ with a wide range of restorative practices (2003:340).

### **Organisational structure and police culture**

The structure of the force plays a central role in the successful implementation of restorative policing (Bazemore and Griffiths, 2003). Structure in this sense refers to the management structure, not just the hierarchical nature, but the oversight and control management have of their workforce. If maintaining control is a key priority of leaders in a force then restorative justice will be implemented through a top-down approach: frontline workers will have a little say in the process (Mazzerolle *et al*, 2014). This approach often fails to acknowledge the fundamental role that officers can play in bringing about reform. Lipsky argues that frontline police officers<sup>11</sup> play a critical role in the implementation of policy “taken together the individual decisions of these workers become, or add up to, agency policy” (2010:3). Due to the aggregate nature of each of their actions police officer interaction with victims, offenders, and members of the community is effectively an example of policy delivery in action (Lipsky, 2010:3). Therefore, Lipsky argues that public policy is not best understood by the legislation that is produced by the top command but further down the hierarchical chain: due to the decisions frontline officers make, the routines that they have and the ways in which they carry out their role in order to cope with work pressures frontline officers operate as street-level bureaucrats and so “effectively *become* the public policies they carry out” (2010: xii original emphasis).

For Lipsky dealing with the fundamental structural processes that impact on the way in which street-level bureaucrats have to function and perform their duties is imperative if policy is to change (2010:8). One key issue relating to the environment in which frontline officers have to work is the amount of rules under which officers must operate. As a result rules can only be enforced selectively; yet it is impossible to eradicate discretion due to the complexity of the circumstances officers face (2010:14). It would not be possible to impose rules in relation to every aspect in which restorative justice (or any other model of policing) could be utilized, however, due to officers’ discretion they may choose not to use it even when conditions are ripe. Lipsky (2010) highlights the discrepancy between the priorities of frontline officers and middle management therefore they are often competing against each other, lacking a shared interest in achieving organizational goals. Toch argues that formulating and implementing new policy without consulting with officers invites

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<sup>11</sup> Frontline police officers fit with the model of a street-level bureaucrat put forward by Lipsky (2010) in that they have high degrees of discretion and relative autonomy from the organisation, albeit they are still restrained by rules and regulations and the cultural norms and practices of their cultural group.

resistance, however consultation and participatory involvement can empower officers to be ‘change agents’: they can become a vehicle for organisational reform (Toch, 2008:61).

Empowering middle managers in the process and recognising their contribution is also vital. There are several ways in which middle managers can influence the implementation process: first, it is middle managers who translate ideas from top management to frontline officers: they “translate the executive’s vision and direction into operational strategies” (Vito, Walsh et al., 2005:493); second, they define what is acceptable operational behaviour and what is not (which actions are praised and which are punished); third, they are able to encourage officers to work differently, to empower them, to show them they are valued and to encourage frontline officers to use their discretion; and fourth it is middle managers who can ‘kill’ an idea, particularly if it challenges their authority (Sparrow, Moore et al., 1992, Vito, Walsh et al., 2005, Skogan, 2008). Fundamentally restorative policing requires bottom up policy development and a move from micro-management towards transformative leadership that encourages officers to use their discretion and take ownership of decision-making at a street level (Clamp and Paterson, 2013, Paterson and Clamp 2012).

For frontline officers to take ownership of decision making it is critical to consider the nature of the training provided: Chapman argues that skilled and principled training is a crucial role in the restorative conference process (2012). If professionals do not receive rigorous training then they may rely on previous practices that are not compatible with restorative justice (Shapland, Robinson et al., 2011). One of the biggest constraints for police officers working on the frontline is time; Lipsky argues that for frontline officers the pressures of their role due to “high case loads, episodic encounters and the constant press of decisions force them to act without being able to consider whether an investment in searching for more information would be profitable.” (Lipsky, 2010:29). Put simply if police officers do not have enough information i.e. they have not received training, or if the training that they received did not cover the information necessary for the situation they are faced with then they are unlikely to invest time in searching for an alternative solution, instead preferring to use their familiar response.

Furthermore, Bazemore and Griffiths (2003) argue that as part of the reform needed to successfully implement restorative policing all aspects of the force need to support restorative practice: this includes job descriptions, and incentive structures (which may still reflect ‘crime fighting’ and results-based models of policing). Incentive structures are particularly acute considering the dominant performance model of policing, the entrenched practices of which are difficult to shift (Graziano *et al*, 2013). A target-driven culture rewards and incentivises *results* rather than *outcomes*. Forces are often ‘locked’ into a

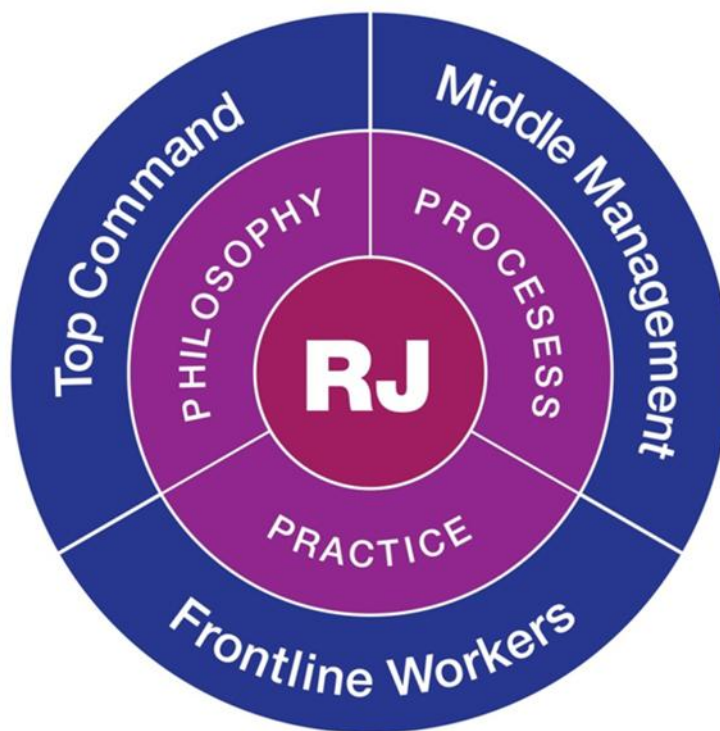
‘instrumental performance-based model of crime control’ (Mazzerolle *et al*, 2014). The focus on performance leads to inflexible, risk-adverse modes of thinking, which are, contrary to the empowerment of frontline officers that restorative policing requires (Clamp and Paterson, 2013). Therefore successful implementation of restorative policing requires reform of many of the taken-for-granted structural elements of the force; including new styles of leadership and management, new job descriptions that emphasise police forces return to a peacekeeping role, and new incentives for resolving crime and conflict that are not target-driven (Bazemore and Griffiths, 2003:342).

### **Barriers to reform**

One of the potential barriers to restorative policing is the challenge it creates by provoking officers’ mind-set in relation to intervention, and the pre-existing goals of ‘doing’ policing (Bazemore and Griffiths, 2003). Research on the implementation of restorative justice in Bethlehem, Pennsylvania found a lack of significant cultural change amongst officers due to subcultural resistance and the maintenance of traditional policing subcultural norms (McCold, 2003:385). When exploring the police culture and subcultures that exist within a police force it is valuable to note that they are not monolithic institutions (Chan, 1996, Farkas and Manning, 1997) nor is there cultural homogeneity of officers (Chan, 1996, Paoline, 2003). Instead police occupational culture is separated among ranks (Reuss-Ianni, 1983, Farkas and Manning, 1997), and there are also differences between officers working in different roles or holding different functional responsibilities (Chan, 1992). Recognising the multiple sub-cultures, each with their own orientation, values and concerns, which exist across a police force, enables the use of ‘culture’ as a unit for analysing the impact of reform (Chan, 1996:109). Furthermore Chan argues that a failure to look beyond ‘police culture’ as an “all powerful homogenous and deterministic conception” stifles understanding and provides little scope for cultural change (Chan, 1996:112)

Different models of police culture exist: much of the research focuses on the informal occupational norms and values of frontline officers, for example considering how lower ranking officers construct space within a police station (Holdaway, 1983), differences between how lower ranks behave amongst peers in the canteen environment compared to when on operation (Waddington, 1999). Further research considers the different cultures that operate within a police force: Reuss-Ianni and Ianni describe cultural differences between street cops and management cops (Reuss-Ianni, 1983) and Farkas and Manning (1997) identified three sub-cultures amongst police officers: top command, middle management and lower participants. It is these organisational cultural subdivisions that are most useful for this research as they provide an analytical framework for exploring and investigating the implementation process. It has already been identified that frontline officers, middle

management and leaders all have a role to play in bringing about successful reform, or leading to its failure. Clamp and Patterson identify Manning’s model (1993) as being a useful tool for investigative police studies (Clamp and Paterson, 2011:30), the updated model of this produced by Farkas and Manning (1997) highlights how different ranking officers orientate towards the implementation of restorative justice as shown in Figure 2. This model is used as a framework throughout this study and the terminology of ‘top command’, ‘middle management’ and ‘frontline officer’ has been adopted accordingly in order to ensure consistency.



*Figure 2: Graphic adapted from Farkas and Manning’s model (1997) showing how different ranking officers are orientated towards different aspects of restorative justice*

Farkas and Manning (1997) purport that frontline workers have a tendency to orientate towards concrete knowledge: the practice of carrying out restorative justice and what is expected of them. Middle managers provide the link between top command and frontline workers; it is argued that understanding by this group is perhaps imperative as it is they who interpret policies and directives (Farkas and Manning, 1997). This particular sub-culture is most orientated towards the implementation process; how to translate their understandings of the philosophy of restorative justice into something they believe frontline officers will understand. They have to consider what to implement, and what practices to prioritise when

faced with competing, and often conflicting demands. Top command is most likely to understand the philosophy of, and theoretical debates surrounding, restorative justice. It is therefore argued that the social distance between senior ranking officers (those who develop interpret and produce new policies) and frontline officers (who are tasked with implementing it) create tensions in the transition to new ways of working and in the uptake of proposed reform (McLeod, 2003, Skogan, 2008, Tock, 2008).

Having considered how police structure and police culture can create barriers to reform this chapter will now progress to consider two areas that present potential opportunities in relation to the implementation of restorative policing: leadership and vision, and training.

### **Opportunities for police reform: leadership and vision**

There are three central points to note in relation to leadership and vision from the literature on restorative policing. Firstly, that a clear vision is imperative to the successful implementation and systemic reform (Bazemore and Griffiths, 2003, McLeod 2003, Clamp and Peterson 2013). Secondly, that leadership is transient by its very nature: a strong leadership must be in place that holds a clear vision for the force (Clamp and Paterson, 2013), importantly leadership must “clearly understand what restorative justice is, what commitment to change is, and what change process requires” (McLeod, 2003:301). The third point is in relation to a potential barrier that can occur if the practice on the ground does not match the ambitions vision held (Bazemore and Griffiths, 2003).

In order to be effective this vision needs to be holistic, systemic and seek ‘to incorporate restorative justice in all aspects of policing’ (Bazemore and Griffiths, 2003:345). The need for a holistic vision requires issues raised in Chapter Three to be considered: given the different forms that restorative justice can take within the criminal justice system how is the vision of restorative justice decided, projected and interpreted across a police force? One of the primary critiques of COP was that it tried to be ‘all things to all people’: there was a lack of clarification as to whether it was a program, a philosophy or both therefore creating difficulties in implementation (Hunter and Barker, 1993). If a clear vision of restorative policing is crucial then in order to deliver successful policy implementation there should be ‘common understanding’ throughout the ranks (Paterson and Clamp 2012:601). However, this ‘common understanding’ can be difficult. One of the impediments of macro visions of reform is the generalised nature an overarching vision may take: leading it to lack the necessary micro information in relation to local implications (Josserand, Teo et al., 2006). Understandings of restorative justice on the front-line are therefore often confused (Paterson and Clamp, 2012:604) and it is recognised that expectations placed on frontline officers can often be vague, ambiguous and often conflicting (Lipsky, 2010:27) The lack of a clear vision



that is easily understood across the whole force is imperative, as Bazemore & Griffiths argue: “to what extent can officers be expected to support restorative policing effectively if basic principles are only vaguely understood?” (2003:343).

Leaders must embrace restorative principles as part of the implementation process; frontline officers, middle managers, and crucially, the wider community need to be actively involved and be given a voice in the process. A leadership that is informed by restorative principles allows and encourages leadership to ‘bubble up’ from below (Clamp and Paterson, 2013:301), and actively encourages innovation across the force. This transformational leadership is a critical part of the change from a post-bureaucratic to a restorative police force (McLeod, 2003). Whilst leadership is important to the implementation, it is valuable to recognise the temporary nature of executive police roles: embracing the values of restorative justice is not enough; they must be incorporated into the wider vision of the force and worked into the fabric of the organisation. If the leader does not engender buy-in for restorative justice across the force, and particularly amongst officers tasked with using restorative approaches in their interactions with the public then reform is unlikely to be sustained. Skogan (2008) points to two features that impact in terms of police reform sustainability; firstly police officers are aware of the local political landscape and try to assess the likely outcomes and longevity of leaders and their proposed reforms, therefore if they suspect a new leadership is imminent they are unlikely to ‘buy in’ to new processes. Secondly, new leaders often have new ideas and want to do new things, disbanding their predecessor’s projects (Skogan, 2008) hence the reluctance of frontline officers (who have often witnessed numerous leadership changes throughout their service) committing to reform. In addition it is found that during periods of change officers might be cautious and unwilling to change, thereby slowing down the process with inaction (Skogan, 2008). Learning from unsuccessful attempts at police reform it is imperative to not only embed restorative justice across the organisation, but to garner political support and crucially to involve the community so it becomes *their* programme, thereby ensuring external support for the reform (Skogan, 2008).

The third point raised relates to the danger of ‘loose coupling’ (Weick, 1976) between ambitious vision and plan combined with a lack of implementation or change in practice (Bazemore and Griffiths, 2003:341). However, an important element of Weick’s theory should not be overlooked: loose coupling may mean that organisational elements disappear and reappear over time, as elements merge or separate in response to organisational need (Weick, 1976). This could mean that while the implementation for restorative policing may *start* a process of reform, over time it may disappear from view or suffer implementation dips (Lambert, Johnstone et al., 2011). However, it may be adapted and used in other forms

within the organisation, for example in relation to police complaints or internal grievances that were not necessarily its primary intention. Whilst the vision and the practice may uncouple for a period of time it is not a one-chance activity, and implementation or reimplementation may occur at a later date.

## **Training**

An important part of reform is the training given to police officers. However, police training tends to focus on the technical and mechanical ‘crime-fighting’ elements of policing and less on the non-technical skills such as problem-solving, decision-making, interpersonal and leadership which officers are expected to learn ‘on the job’ (Bradford and Pynes 1999, Mazzerolle *et al*, 2014). The lack of emphasis on delivering training in non-technical skills that are crucial for delivering restorative justice is remarkable. Restorative policing is not about creating one or two isolated restorative justice programmes, restorative justice should be ‘built into the bricks’ of organisations (Bazemore and Griffiths, 2003:341). Organisations are transformed not because they ‘have’ to do an element of restorative justice or use a ‘new’ initiative but because restorative values and the use of restorative approaches is engrained, it is ‘a way of life’ (McLeod, 2003:372).

Given programmes such as restorative justice are aimed at ‘revolutionising policing’ there is often incredulity that police forces only spend a short period of time, often just a few hours, occasionally perhaps devoting one or two days to training officers (Skogan, 2008:29). However, this lack of training is not unusual, it is not a recent phenomenon, and it does not only apply to restorative justice: recalling the implementation of PACE, John Long describes how he and his fellow police colleagues in 1984 received a mere one day training course (Long, 2008:96). This was deemed by those implementing PACE at the time as a satisfactory amount of time to provide officers with enough knowledge, in relation to what at the time was a new legal framework, central to their work. However, from an operational perspective it is problematic due to the sheer number of training sessions, all of which are deemed a ‘priority’ that officers need to attend (Long, 2008:113). In addition, due to the very nature of police work it is not possible to ‘close’ the organisation for a day in order to train staff as the suggested route for delivering restorative training across other organisations requires (Lambert, Johnstone *et al.*, 2011).

However, the importance of training cannot be stressed enough. One of the dangers is that “without an adequate model of training, officers may apply the letter of the law without understanding its spirit.” (Dixon, Bottomley *et al.*, 1989:203). As previously mentioned in Chapter Three training ultimately impacts on the end results: the more developed, conceptually advanced, and better defined the model of restorative justice, the more it

adheres to restorative principles, and staff are provided with specific training in order to achieve maximum comprehension and skills then the more likely the scheme will be successful in terms of offender rehabilitation (Bonta, Jesseman et al., 2006). Furthermore, Long argues that in general if new ways of working are to have an effect on the organisation or culture then ‘deeper learning and development’ for police officers’ needs to be implemented (Long, 2008:114).

In terms of leadership and vision it is therefore important to have an executive team who understand restorative justice and have a desire to implement it. Due to the temporary nature of leadership within a police organisation it is imperative to engage the wider community in restorative justice and embed it across the organisation. Training is a critical means to create understanding and support from frontline officers. The difficulties in training police officers have been recognised, however, the benefits of restorative justice cannot be guaranteed if those facilitating conferences do not possess an understanding of restorative principles. Therefore it is crucial that time and resources are invested to develop skills in relation to conducting restorative processes. One way in which to achieve all these crucial elements is for police forces to strive towards delivering a restorative organisation, rather than relying solely on officers to carry out restorative processes in certain elements of their role. A restorative organisation takes the policing reform brought about by previous models further and promotes employs a bottom-up approach with restorative elements influencing all aspects of the way in which an organisation operates and it is this model that will be considered in more detail in the final chapter section.

### **A model for restorative justice implementation**

Using COP as a case study McLeod (2003) provides a useful framework to demonstrate the differences between a bureaucratic, a post-bureaucratic and a restorative police force. This framework serves to highlight the necessary changes a police force needs to undergo in order to create the fertile cultural climate necessary to successfully implement restorative policing. McLeod’s theory highlights the process of moving from a bureaucratic organisation, one that is highly structured with a clear chain of command and division of labour, an emphasis on paperwork and high levels of control (McLeod, 2003:363). When police forces have a bureaucratic model in place frontline police officers are neither enabled nor encouraged to work innovatively, and are less likely to use discretion or to effectively engage with the community (McLeod, 2003). Restorative policing has been promoted as a way to encourage officers’ use of discretion, to allow frontline officers to be innovative in their approach and to actively strive towards positive outcomes rather than merely following processes and chasing performance targets (Paterson and Clamp, 2012). The argument is therefore that introduction of restorative justice across a police force will encourage officer

autonomy, however, as this chapter will discuss there are structural and cultural barriers that need to be addressed. Therefore, use of restorative policing in a bureaucratic force is likely to be at a superficial level rather than due to a substantial belief or embracing of restorative philosophy (McLeod, 2003). There is a danger that police forces may cite ‘buzz words’ in order to appear progressive but there is little desire across the organisation to move from the traditional reactive model of policing (Hunter and Barker, 1993).

However, attempts at reform must begin somewhere. Whilst implementation of restorative policing in a bureaucratic force may be superficial it can help to start the process of reform, bringing about new ways of working and enabling a police force to start the journey towards a post-bureaucratic model. Yet the transition from bureaucratic to a post-bureaucratic organisation and ways of working should not be overly simplified: it is not a linear process with discrete stages, there are numerous intrinsic difficulties especially when reforming large organisations with the end result often a hybrid between the two models as bureaucracy tends to resurface (Josserand, Teo et al., 2006). This is especially true in public sector organisations, such as the police, where newer forms of working develop alongside traditional lines of authority creating a hybrid ‘neo-bureaucratic’ organisation (Morris and Farrell, 2007). Despite the potential difficulties involved in transitioning from a bureaucratic model it is useful to conceptualise what the post-bureaucratic police force involves, and how this fits with ideals of restorative policing. McLeod asserts that a post-bureaucratic force will have a more problem-solving and customer-focused approach, with higher levels of community engagement and communication with citizens at each stage of the process (McLeod, 2003). The emphasis in a post-bureaucratic force is on quality and value: results are valued over processes and inputs (McLeod, 2003:364). There is also a movement away from authority and enforcing responsibility, towards building accountability. This is not just externally in relation to the public, but also within the force: in a post-bureaucratic organisation each employee is able to recognise the value and contribution they bring individually and collectively in terms of force as a whole (McLeod, 2003: 364).

The final ‘restorative’ stage goes beyond this organisational model to an open system with a flat hierarchy and decentralised decision-making. The overall environment is empowered with a ‘community of leaders’ and restorative values are embedded across all aspects of the force from its mission statement, recruitment, training, and processes (McLeod, 2003). A vital distinction to make in terms of restorative policing is that it is not solely about adopting a restorative process: it needs to extend beyond a single programme (Bazemore and Griffiths, 2003, Paterson and Clamp 2012). The difference between a restorative organisation and one that is almost a restorative organisation is due to a fundamental change in values, in culture and in structure: it just *is* (McLeod, 2003:373). A fundamental change

in organisational and management structure has occurred and restorative values have become embedded across the organisation (2003:372-3). Whilst this may be the ideal the reality is easier said than done. This raises issues in relation to the practical and cultural barriers to implementing restorative justice across a police force.

Having discussed the broader issues in relation to the theory of restorative policing and the impact of organisational theory this chapter will now describe initial attempts at implementing restorative policing in an international context, first exploring Wagga Wagga, Australia and then Bethlehem, Pennsylvania before concentrating on its use in England and Wales.

## **Police use of restorative justice**

### **Wagga Wagga**

In Australia Restorative Cautioning based on Braithwaite's theory of crime shame and reintegration (1989) was adopted first by the police force in Wagga Wagga before spreading across the country. Braithwaite argues that sanctions imposed by persons relevant to the offender (i.e. friends or relatives) have more effect on that person's future criminal behaviour than sanctions imposed by the state (1989: 69). Shaming is the key to controlling all kinds of crime, of which Braithwaite distinguishes between two kinds. The first is stigmatising shame; this disintegrates the moral bonds between the offender and the community and increases crime. He argues it is this kind of shame that is most used by the criminal justice system. The second type of shame is reintegrative shame; this strengthens the bond between the offender and the community by acknowledging the shame of wrongdoing but then offering ways in which the offender can make right the wrong (by expressing remorse, apologising to their victim and repairing the harm caused by their crime). The offender is then reintegrated into society as a law abiding citizen and crime is decreased. It is this reintegrative shaming that forms part of an alternative, restorative model of justice.

Influenced by Braithwaite's theories as well as the family group conferencing work that was happening in nearby New Zealand the early 90s saw the police in a small Australian town called Wagga Wagga experiment with police-led, scripted, restorative conferencing.

Adopting it as part of an 'effective cautioning scheme' the Wagga Wagga model held family group conferencing style forums in which reintegrative shaming is used on the offender (Moore & O'Connell, 1994). What was unique about Wagga Wagga was the use of police officers as facilitators; prior to this other forms of restorative justice, such as victim offender mediation and family group conferences used 'neutral' facilitators, not officials or authority figures. The model itself encouraged police officers to think about how they responded to

youth crime, giving consideration to the needs of victim. In addition to the victim the scheme also gives consideration to the offender in that that they are given a ‘clear strong message about the acceptability of their behaviour’, thereby reducing the likelihood of reoffending and providing the “most just, most effective means of preventing crime” (Moore & McDonald, 1995:146-7). The police-led caution is described as offering a ‘constructive’ way for victims and their family and friends to deal with any anger or resentment they might be feeling (Moore & McDonald, 1995).

However, the use of police as facilitators was met with criticism and concern, and Wagga Wagga drew significant protest from community and legal organisations and academic researchers (Hoyle, 2007). Blagg (1997) argued that the shaming model used in Australia has been targeted at Aboriginal people and that this method may intensify rather than reduce police control over what is already a victimised population. There were also worries that reintegrative shaming would be used against the most vulnerable and that introduction of restorative justice in Wagga Wagga reinforced the role of the state and did little to ensure great controls over discretionary decision making; indeed it was argued that it was likely to result in more punitive outcomes for indigenous youth (Cunneen, 1997).

Umbreit and Zehr (1996) outline the following six key arguments in relation to the use of police officers as facilitators. First, that this form of conferencing may not allow sufficient time for preparation, therefore limiting the humanising elements of the process and the ability for those attending to feel safe and be able to engage in genuine dialogue. Second, that police facilitators may be insensitive to victim’s needs and coerce them into attendance. Third, that young people, particularly young offenders may be intimidated by adults, especially uniformed police officers, and are therefore unable to comfortably talk about their thoughts and feelings. Fourth, that authoritarian behaviour is ingrained in police behaviour and they are therefore potentially incapable of delivering the neutral facilitation that reintegrative shaming required. Fifth, the use of a script offers little deviation and therefore is too rigid and lacking in cultural sensitivity. And finally the sixth objection is that police-based conferencing may lead to net-widening. McCold and Wachtel use police data from the Bethlehem project to address some of the concerns raised and argues that police officers can be competent facilitators in restorative processes as will be discussed in the following section. (McCold and Wachtel, 1998).

### **Bethlehem**

In 1995 the police force in Bethlehem, Pennsylvania implemented a diversionary restorative justice scheme for first time juvenile offenders based on the family group conferencing and ‘Wagga Wagga’ model. Whilst VOM was already used across the United States, Bethlehem

was the first programme that involved police officers as conference facilitators. Eighteen police officers received an initial three-day training course, the scheme was marketed locally to gain community support and an experimental design to assess the effectiveness of the scheme was put in place (McCold and Wachtel, 1998). The scheme's mission was to provide an: "alternative justice program for juvenile offenders and their victims. By providing a forum for victims to express feeling and take part in the repair of harm, the offenders must own and evaluate their behaviour and how it affects other people." (McCold and Wachtel, 1998). The evaluation of the project examined, amongst other things, whether American police officers were capable of facilitating conferences to a standard that is consistent with restorative justice principles and if the victim, offender and community were willing to accept police-based restorative conferencing. It also examined how police-based restorative conferences compared both to existing justice processes and also to other restorative justice practices. A further research question explored if the introduction of restorative conferencing produced a culture shift across the police force from a punitive approach towards a problem-solving restorative approach, as experienced in Wagga Wagga.

The research found that police officers were capable of facilitating a scripted restorative conference; however, there was a tendency for officers to lecture the offender, particularly if the facilitator felt like the offender was not remorseful about the incident. There were concerns that this lecturing could be perceived as stigmatizing (McCold and Wachtel, 1998). Researchers also found occasions where the police officer facilitating the conference influenced the agreement, for example using phrases such as "how much community service would you like done?" (McCold and Wachtel, 1998: 104). Whilst the majority of young offenders interviewed after the event felt that all aspects of the process were voluntary a small number felt that they did not have the right to leave the conference at any time, on reflection McCold and Wachtel suggest this was perhaps more due to coercion by family members than from the facilitators (1998:103). In response to some of the concerns raised extra training was given to the police officers in order to reinforce key issues, particularly around the reintegrative intention of the conference. Following this intervention compliance with the protocol increased from 80% to 89% (McCold and Wachtel, 1998). Overall findings suggest that restorative principles were 'sufficiently' if not 'exemplary' applied (McCold and Wachtel). Significantly 96% of participants who experienced a police-led restorative conference were satisfied and felt that the process was fair (McCold and Wachtel, 1998).

In contrast to the findings from the Wagga Wagga project, there was no significant change in police officer attitude, organisational culture or role perception (McCold and Wachtel, 1998). Police officers who were involved in facilitating conferences, and were therefore already predisposed to community policing, did measure higher perception of community

cohesion and lower for a crime control approach in their attitude questionnaires. McCold and Wachtel conclude that whilst the implementation of police-led restorative conferencing did not transform police attitudes or organisational culture it did “move those with the most exposure to conferencing toward a more community-orientated, problem-solving stance” (McCold and Wachtel, 1998:6). In relation to organisational transformation it is important to recognise that Bethlehem had not adopted a whole force approach to restorative justice and only small numbers of the workforce (less than ten per cent) were trained, therefore it is perhaps hardly surprising that police attitudes and culture were not affected by the implementation.

In terms of how police-led restorative conferencing compares both to the pre-existing justice system and to other restorative justice practices the research found that rates of satisfaction were at least as high as court process and other restorative processes and that participation rates and compliance rates were also comparable. Due to self-selection bias recidivism rates could not be appropriated to the restorative encounter. However, as a diversionary scheme it did divert those who were the least likely to reoffend and avoided net-widening (McCold and Wachtel, 2008:113). There were also additional benefits in relation to the restorative nature of the scheme, as discussed in Chapter Two. Whilst schemes may not be ‘ideal’ it is still possible to derive value from the application of restorative values (Doolin, 2007). Importantly McCold and Wachtel found that compared to VOM, police-led restorative conferencing “produced higher satisfaction, perceptions of fairness and participation rates for less-cost” (1998: 113).

The Wagga Wagga police experiment showed that implementing police-led restorative approaches has the potential to bring about cultural change across a police force. Despite strong opposition in Australia to the idea of police-led facilitation the ‘Wagga’ model has been adapted for use by police forces elsewhere. Its use in Bethlehem shows that police-led restorative approaches are widely accepted and are an ideal diversionary measure. Bethlehem also showed the use of police-led restorative justice offered improved participation, financial benefits, and importantly high satisfaction rates with conferencing perceived to be fairer than VOM processes. Building on the success of these projects scripted police-led restorative conferencing, especially the ‘Wagga’ model, “has proliferated internationally with astonishing speed” (Johnstone, 2011:4). The following sections will explore the use of restorative processes by police forces in England and Wales exploring initial developments before focusing on its use by Thames Valley.



## **Restorative policing in England and Wales**

In England and Wales small-scale victim-offender reconciliation had been trialled in South Yorkshire in the early 1980s (Smith, Blagg et al., 1988). The mid-80s also saw ‘official’ interest with the introduction of four experimental schemes in Cumbria, Wolverhampton, Coventry and Leeds funded by the Home Office (Marshall and Merry, 1990). Although funding for these schemes was not sustained (Davis, 1992). Further evidence of innovative partnership working between police and other partnership agencies was also taking place as part of the Northants Juvenile Liaison Bureaux (Hinks and Smith, 1985). This scheme was essentially restorative in nature obtaining recommendations for action from both the offender and the victim for all youth referrals to the police. The underlying aim of this being to encourage active engagement and problem-solving, exploring ways to ‘put things right’ (Smith, 2011:425). The Northants Juvenile Liaison Bureaux was a successful diversionary scheme achieving significant reductions in prosecution rates and custodial sentences; it also notably brought about a shift in focus from the offender to the offence (Smith, 2011).

Another police-led scheme that embraced restorative values was the Retail Theft Initiative in Milton Keynes (McCulloch and Webb, 1996). This was aimed at first and second time shoplifting offenders and involved establishing the offender’s motivation for committing the offence and designing a programme of activity which could include meeting with store managers. Findings from the retail theft initiative showed a significant reduction in reoffending and a reduction in police time (McCulloch and Webb, 1996). What is interesting about these initiatives is their localised problem-solving nature: they were not driven by top-down policy but a bottom-up response to local need. The schemes also appear to be initiated, developed or positively received by the police force at the time. Despite their success the schemes were not sustained. It was arguable only when ‘restorative cautioning’ was utilised by the police that restorative justice started to take off across England and Wales (Johnstone, 2011). Unfortunately this resulted in the model adopted being based on the Wagga model and Braithwaite’s reintegrative shaming theory that Johnstone argues led to the broader ideas and values of restorative justice being overlooked (2011). To date in the UK restorative justice has predominantly been incorporated, at least on a statutory basis, into the youth justice arena, although there are further examples of restorative justice being used in the adult criminal justice system, including Shapland, Robinson *et al* (Shapland, Robinson *et al.*, 2011) as discussed in Chapter Three.

## **Thames Valley**

Police-led restorative justice schemes were also introduced in England and Wales in the early 1990s, the largest of which was the Thames Valley restorative justice initiative, both in

terms of the number of cases processed and the way in which it was not confined to particular offences or offenders (Hoyle, Young et al., 2002). Having already developed community and problem-solving approaches the Chief Constable of Thames Valley police, Charles Pollard was committed to implementing a variety of restorative practices and training police officers in restorative techniques (Pollard, 2000, Hoyle, 2009). Over time restorative approaches were introduced for youth and adult cautions, for neighbour disputes and for police complaints (Hoyle, 2009). It was to be the first attempt at transforming police caution practices on such a large scale in England and Wales. From the 1<sup>st</sup> of April 1998 all police cautions issued to both adults and young people would be 'restorative in nature' with police officers using a script to ensure structured dialogue, similar to the Wagga Wagga model (Hoyle, 2009:189). Over a three year period from 1998 – 2001 Thames Valley held 1,915 restorative conferences between both the victim and the offender, and a further 12,065 restorative cautions where the victim was absent but police officers would attempt to 'theme in' the victim's views (Hoyle, Young et al., 2002).

Crucially the implementation of restorative justice across Thames Valley police force was not only subject to external academic evaluation but the research contained an action research element. Recognising that the key weakness to many criminal justice programmes is their implementation Hoyle, Young *et al* conducted their research in distinct stages so that interim findings could be presented to the force (2002). This allowed Thames Valley to reshape aspects of the restorative justice initiative, for example the training content or guidance, as necessary (Hoyle, Young et al., 2002).

Overall findings were similar to the Bethlehem project; the Thames Valley evaluation show that victims, offenders and their supporters felt that they have been treated fairly and overall were satisfied with the process. Again a small minority felt they had been pressured into taking part in the proceedings. Researchers also found that police facilitators asked inappropriate questions during the restorative encounter, for example to elicit intelligence or referred to previous offending behaviour. Two-fifths of offenders felt stigmatised as a 'bad person' by the process, and there was some pressure on offenders to apologise or carry out reparative work by the police officers. However, overall police facilitation skills did improve over the three year period and over four-fifths of participants felt that the restorative conference was a good idea (Hoyle *et al*, 2002).

The evaluation of Thames Valley also explored the impact the introduction of restorative approaches had on police culture. It found that some officers, perhaps those who had not received training or witnessed a restorative conference were sceptical. They believed it to be a lightweight, 'ineffective' response and generally conceived it as a 'watered down caution'.

It was hoped that some of these officers would come ‘on board’ and recognise its benefits: many officers described as being fully supportive of restorative justice admitted to being wary of it at the start. However, there was an additional group of ‘die hard’ officers who were reluctant to change and were considered by management as unlikely to be converted (Hoyle, 2009:194).

Hoyle questions if the support for restorative justice was biased towards the idea of its use as a technique to reduce reoffending; acceptance from police officers and other criminal justice agency staff such as youth offending team members was not necessarily linked to the restorative nature of the disposal (2009:194). The emphasis on reoffending meant it was not embraced for being a process that places equal concern on the victim, the offender, and the wider community (2009:194). It is therefore argued that the impact of police culture through the implementation of restorative approaches was actually just a shift from “deterrent to rehabilitative thinking” (Hoyle, 2009:194).

Restorative conferencing is time-consuming in terms of both the necessary background research and in organising the conference including contacting all parties and arranging suitable times, dates and venues. Even without victims present the restorative cautions also required ‘substantial’ amounts of research before the process could go ahead; the cautioning scheme at Thames Valley was therefore both a time and resource intensive process (Hoyle, 2009:190). However, the preparation is a crucial component, particularly in relation to fair process values: victims and offenders must understand the process and be provided with enough information, and be given adequate time to consider their options in order to make an informed choice (Hoyle, Young et al., 2002). It also required substantial training for frontline police officers, as well as the creation of specific ‘RJ coordinator’ posts that would process all cases destined for caution and contact the victims, offenders, and ‘supporters’ such as family members. However, due to the frequency of movement across a force as police officers change roles Hoyle notes the amount of training needed to effectively deliver restorative justice both in terms of the preparation, the process, the aftercare needed, and the investment in training is often fruitless as officers frequently move to new roles or new departments (2009:200).

The research also demonstrates the importance of the scripted process of restorative conferencing. Hoyle, Young *et al* argue that whilst inadequate training and understanding of restorative justice means that an officer facilitating a restorative conference may encounter problems if a deviation from the script is necessary, however, “unnecessary deviations from the script are the greater evil” (2002:68). The scripted process enables a structured encounter between participants, it helps to prevent participants from becoming marginalised, it fosters

restorative thinking, and it creates the maximum chances of restorative processes and outcomes to occur (Hoyle, *et al* 2002:68).

Overall findings from the Thames Valley initiative suggests that whilst there needs to be caution, particularly for police forces to not attempt to cut corners in relation to the preparation time for conferences and the use of the scripted process, there is still much to celebrate in relation to the scheme. However, restorative cautions transformed practices from the old-style cautions which were idiosyncratic to a more consistent practice and also created a broader transformation in relation to the police force: showing that forces can be innovative, take risks and be guided by action research to alter practices in line with academic recommendations (Hoyle *et al*, 2002).

### **Current use**

Since the Thames Valley initiative restorative justice has been used and accepted at a national and local level by police forces across England and Wales. The Association of Chief Police Officers (ACPO) appointed a national lead for restorative justice in 2010. An ACPO survey sent to all forces in December 2009 indicated of the 38 forces that responded to the survey 33 were using restorative practices (Shewan, 2010). The survey showed 76.3% involved other criminal justice agencies in their restorative justice initiatives (Shewan, 2010:4). Over 18,000 police officers and PCSOs had received some sort of training, although Shewan notes that there are inconsistencies with training standards across police forces (Shewan, 2010:4). Within the police forces that responded to the survey it is calculated that 73.7% of restorative justice practices involved response and neighbourhood officers and 55% said that restorative conferencing was part of the process used by neighbourhood officers (Shewan, 2010:4).

In terms of how police forces have adapted restorative practices into their everyday working routines Shewan states that its “application is far wider than it was in the 1990s and that its focus is one that goes beyond the goals of just reducing reoffending” (Shewan, 2010:4). It is seen as an effective “problem-solving tool”, and is particularly used by Neighbourhood Policing Teams as a ‘quick and effective’ way to deal with crime and low-level disputes, neighbour disputes, and incidents in schools (Shewan, 2010:4). Level 3 conferencing has also been adopted within integrated offender management (IOM) units where it is used as a post-sentence element to reducing reoffending programmes. A recent mapping exercise has been undertaken to explore restorative provision in England and Wales, however, due to the timescales of the project the response rate, particularly from police forces, was low. Despite this setback the report does highlight that the wide range of restorative activity that is taking place across England and Wales at every stage of the criminal justice system: from

diversionary activities, to out of court disposals, pre-sentence at both magistrates court and crown court, community orders, within custodial settings and also post-release (Meadows, Kinsella et al., 2014).

Use of restorative justice within police forces can take the form of community disposals or restorative conferencing. Conferencing is categorised as Level 1, 2, or 3 and all processes use police-led facilitation with the use of a script (the Level 1 conference normally involves a *pro forma* that can be carried in their pocket notebooks). Level 1 or on-street, ‘instant’ conferencing is an umbrella term that can include the administration of “YRD [youth restorative disposals] as well as Community Resolutions/Disposals delivered in the Professional Decision-Making schemes; it deals with minor crimes on the spot and is quick and easy to utilise” (Shewan, 2010:3). Level 2 ‘restorative or community’ conferencing is a more timely process used for more serious crimes and incidents or persistent antisocial behaviour, long running neighbour disputes (Shewan, 2010:3). Level 3 restorative conferencing is post sentence, often working in partnership with prison and probation and often taking place inside prisons pre-release, this type of conferencing is organised by police officers working within specialised units such as the integrated offender management (IOM). Figure 3 taken from (Shewan, 2010) shows the three different levels of restorative justice processes in relation to the seriousness of the offence/risk of offending and the level of impact the restorative intervention is likely to produce.

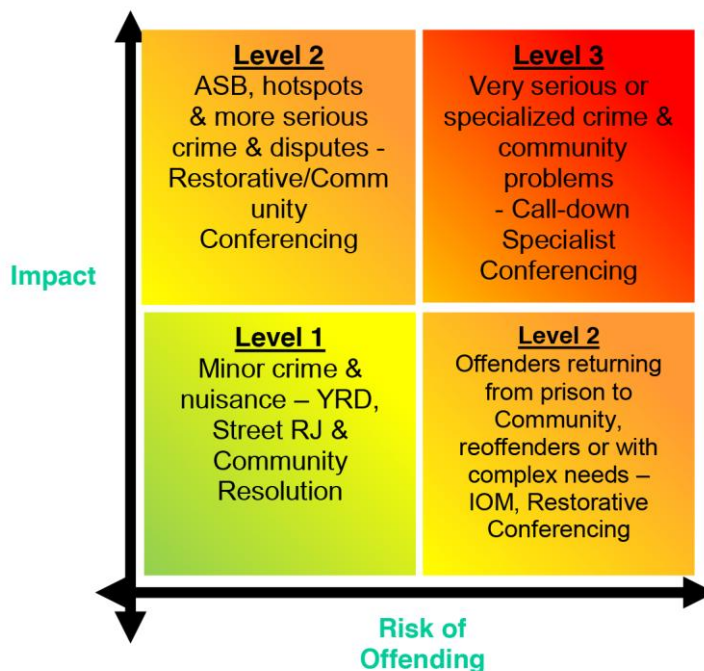


Figure 3: The different 'Levels' of restorative justice process

Level 2 and Level 3 conferencing are most similar to previous studies on police-led facilitation and restorative conferencing where arrangements are made for the victim and offender to meet at a neutral venue, the meetings may also involve more stakeholders, community members and supporters for the victim and the offender. There is increasing concern in relation to Level 1: firstly, there is a lack of evaluation into Level 1 practices and that the proposed benefits of ‘instant restorative justice conferencing’ are not supported by the existing knowledge base (Strang and Sherman, 2014, Slothower, Sherman et al., 2015). Secondly, in her preliminary findings of research into the use of restorative justice by police officers in England and Wales Parker questions “whether the police processes developing in England and Wales are in fact ‘Restorative Justice’” (Parker, 2013:139). One of the key issues is whether Level 1 is indeed restorative justice. This builds on O’Mahony’s findings for youth restorative disposals do not appear to be aligned to restorative principles (2012). A critical issue is the offender-focused nature of the disposal: criteria for implementation is based on offender variables (for example, the type of offence committed, if the offender has an previous convictions, if the offender is under the influence of alcohol or drugs) only if the offender and the offence meet the police-imposed criteria is the victim invited to participate (Parker, 2013).

There are also concerns in relation to how officers are interpreting and understanding the different ‘Levels’. Recent research highlights a distinct lack of police officers using Level 2 restorative conferencing, with the majority of restorative activity taking place on the ground comprising of Level 1 instant disposals (Meadows, Albertson et al., 2012). It is understandable why this is happening, as Meadows *et al* (2002:25) research highlights frontline officers believe that organising conferences is not within their remit and not the best use of their time. Furthermore additional effort and outcomes from a restorative conference often go unrecognised by managers as they are unaware of the differences between Level 1 and Level 2 and the extra preparation time involved (Meadows *et al*, 2002:25).

Having considered its current use by police forces across England and Wales it is important to consider two points further: firstly the ACPO survey provides only a snapshot in terms of its use and general acceptance, here it states that “the use of RJ interventions has been embraced enthusiastically by officers in participating forces. They have described its flexible and impactful capabilities as a return to ‘common-sense’ policing” (Shewan, 2010:4). However, not all forces are using restorative justice and there is a variation in how it has been used within forces. Previous case studies have recognised considerable resistance to the implementation of restorative policing; therefore have *all* officers ‘enthusiastically embraced’ restorative justice and if not then it is important to explore these patterns to

resistance. Secondly, there is little knowledge in relation to how police forces are interpreting restorative justice. This is significant as ACPO are committed to empowering forces “to develop their own programmes” in relation to restorative justice: whilst ACPO aim to provide “clear consistent standards and processes” it is already identified that there is potential for confusion in relation to the Level 1 and Level 2 processes. The ACPO survey suggests that forces have “a very clear understanding of the principles of RJ with agreement that the process seeks to involve both the harmer and the harmed, seeks to establish the facts and acceptance and above all seeks to repair the harm (73.7%)” (Shewan, 2010:4). However, there is no indication if this understanding is an organisational understanding or individual and does not reflect the cultural differences in policy orientation that may exist across an organisation.

## **Summary**

Restorative policing encompasses a variety of schemes and encapsulates the introduction of restorative justice and restorative values into policing. Whilst the core values remain the same as those for restorative justice there are additional transformative values specific to restorative policing. These include transforming the relationship between communities and the police and the potential for restorative policing to bring about systemic reform of the criminal justice system (Bazemore and Griffiths, 2003).

This chapter considered some of the previous attempts at police reform, including COP and POP in order to explore some of the potential barriers to successful implementation of restorative policing created by organisational issues, including the bureaucratic nature of an organisation, and cultural issues including the effect of police rank and role, particularly in relation to the way that frontline officers operate as ‘police agents’ and their impact on the way policy is made and implemented (Lipsky, 2010). The literature highlights that police forces are not monolithic institutions, therefore understandings of restorative justice and the barriers and opportunities experienced during the implementation of restorative justice may be different depending on both the rank of the police officer, and therefore their orientation towards new policies, and the role of the officer; for example if officers occupy a ‘peace-keeping’ as opposed to ‘crime-fighting’ role within the institution. Other organisational issues have also been explored; including the importance of leadership and vision and the need for this vision to be successfully translated to frontline officers in order to develop a common understanding across the force. The role of training is also considered due to the pivotal role it plays in developing officer’s understandings and willingness to use restorative justice.

The chapter then considered three case studies detailing the implementation and use of police-led restorative conferencing: in Wagga Wagga, Bethlehem and Thames Valley. The case studies have shown victims and offenders, and community can accept police-led restorative justice and that with the correct training there is potential for police to facilitate restorative conferences. Furthermore it is demonstrated that the use of restorative justice by police forces may provide an opportunity for culture change, however, its implementation may still be met with resistance and there is likely to be some officers who are reluctant to change their behaviour or accept its use. There does still need to be caution in relation to the potential for a culture change to occur: there are concerns as to whether the shift that occurs is a move towards a restorative way of thinking, or with the emphasis on its potential for reducing reoffending it is merely a shift from a deterrent to a rehabilitative way of thinking (Hoyle, 2009).

These three background chapters have outlined the academic context for this research. The following chapter will provide details of the research methods used. The thesis will then proceed to give an overview of the police force selected for this study providing the background information in relation to its initial implementation and re-implementation of restorative justice.



## Chapter Five: Research Methods

### Introduction

This chapter sets out the research methods and approach employed by this thesis. This thesis uses a single case study of one police force based in the North East of England. Compared to the other 43 police forces in England and Wales it is relatively small and, whilst predominantly rural, it covers a diverse area. The workforce in 2014 consisted of 1318 police officers, 693 staff and 157 PCSOs. In response to the reduction in central government funding that began in 2010/11 there have been significant changes across the workforce, including staff redundancies. In 2011 the organisation introduced a new 'Force Operating Model (FOM)', following this restructure the force was divided geographically into four localities and it operates through four functional commands: Neighbourhood Policing, Response Policing, Crime and Criminal Justice, Tasking and Co-ordination and Support Services.

This force was chosen for this case study for two reasons: firstly it was about to embark on an ambitious re-launch of restorative justice policy; this provided an excellent research opportunity to explore why the initial roll out had not been as successful as was originally hoped and to follow the re-implementation of the new 'restorative approach'; secondly this site was chosen due to practical reasons including the timing of the research and access. This force had previously implemented restorative justice policies in 2008/9. Whilst there had been some take up and small pockets where restorative justice had been used the initial implementation had not seen the embedding of restorative justice practices or the creation of a 'restorative justice county' that was originally envisioned. At the time of starting my fieldwork the force was preparing to launch a '100 day restorative justice plan'. This was specifically timed due to the retirement of the current Chief Constable of the force. The then Deputy Chief Constable would be acting Chief Constable for a three month period. There was therefore a 'window of opportunity' (Kingdon, 2003) to implement restorative justice. This provided an excellent opportunity to follow events preceding the implementation of the 100-day plan, explore officers' interpretations as to why the initial roll out of restorative justice had not been as successful as hoped and observe policy-making in action. This was aided by access - I was in a unique insider-outsider researcher position as a staff member and doctoral researcher.

The research draws on a mixed methods design involving focus groups with frontline officers, interviews with Chief Constable and Police Crime Commissioner and a range of officers who formed part of a restorative justice steering group. It also used participant

observation of steering group meetings, and document analysis of the force restorative justice policies.

The chapter begins by setting out the research aims and objectives, before explaining the choice of research methods and how each of these data collection methods are best suited to answering the research questions. The epistemological utility, value and limitations of these methods will also be addressed. Further reflections on my research position as ‘partial insider’ will be considered in detail, and some of the advantages and disadvantages this position created will be explored before broader ethical considerations are documented. The chapter will conclude with an assessment of the validity and limitations of the research.

### **Research aims and objectives**

The overarching aim of this research is to explore how specific policies in relation to restorative justice have been accepted, communicated, understood and implemented at a local level by a single police force in England and Wales.

In order to answer this overarching aim three research questions were set:

4. What are the organisational and individual understandings of restorative justice: how is ‘restorative justice’ defined by a police force and understood by its staff?
5. What are the constraints and limitations when implementing restorative justice policy across a police force?
6. What were the key opportunities with regards to successful restorative justice policy implementation?

To address these questions a multi-method qualitative-dominant approach was used. The overarching aim of the research seeks to answer complex social issues addressing both individual and group opinions in addition to examining decision-making behaviours; a single method was unlikely to address all the issues raised. The use of different methods therefore allows for greater insight and enhances the findings of the research (Johnson, Onwuegbuzie *et al.*, 2007). Table 2 shows the different research and analytical methods employed to answer each of the three research questions.

*Table 2: Research and analytical methods employed to answer the research question*

<p><b>Research Question 1.</b></p> <p><b>What are the organisational and individual understandings of restorative justice: how is ‘restorative justice’ defined by a police force and understood by its staff?</b></p>	<p>Interviews with members of the restorative justice steering group (n = 8)</p> <p>Interviews with Chief Constable and Police and Crime Commissioner</p> <p>Focus Groups with frontline workers (n = 31)</p> <p>Document analysis of organisational literature: including policy documents, guidance documents and information available through the knowledge base on the staff internal intranet.</p> <p>Participant observation of restorative justice training and training planning sessions</p>	<p>Thematic analysis of interview and focus group transcription</p> <p>Thematic analysis of force documents</p> <p>Field notes indexed according to event</p>
<p><b>Research Question 2.</b></p> <p><b>What were the key opportunities with regards to successful restorative justice policy implementation?</b></p>	<p>Interviews with members of the restorative justice steering group (n = 8)</p> <p>Interviews with Chief Constable and Police and Crime Commissioner</p> <p>Participant observation of steering group meetings and training debrief.</p>	<p>Thematic analysis of interview and focus group transcription</p> <p>Field notes indexed according to event</p>
<p><b>Research Question 3.</b></p> <p><b>What are the constraints and limitations when implementing restorative justice policy across a police force?</b></p>	<p>Interviews with members of the restorative justice steering group (n = 8)</p> <p>Interviews with Chief Constable and Police and Crime Commissioner</p> <p>Focus Groups with frontline workers (n = 31)</p> <p>Participant observation of steering group meetings and training debrief.</p>	<p>Thematic analysis of interview and focus group transcription</p> <p>Field notes indexed according to event</p>

## **Research approach and methods**

### **Multi-method approach**

As stated this research employed a mixed methods approach, this approach is particularly useful when exploring “complex phenomena in real-world settings whereby the use of one

single method would be unlikely to reveal a complete picture” (Campbell, Patterson *et al.*, 2011:377). Different styles of research were combined in order to address the research questions. Taking a constructivist viewpoint, the methods chosen were qualitative dominant (Johnson, Onwuegbuzie *et al.*, 2007). The different data sources were used simultaneously (Morse, 1991); whilst participant observation aided the planning of the interview and focus group guides the findings from one data source were not used to plan the next method. Rather the findings from each approach were brought together during the data interpretation stage (Morse, 1991).

Whilst drawing on the rationale for mixed-methods as an overarching approach the term ‘multi-method research’ has deliberately been chosen due to two features of this particular project: firstly, as discussed, there was no systematic design, whereby data from one approach influenced another; and secondly that the research methods chosen are predominantly qualitative. Bazeley suggests the term multi-method research is used when different approaches are “used in parallel or sequence but are not integrated until inferences are being made” (in Johnson, Onwuegbuzie *et al.*, 2007:119). Furthermore, Hunter suggests the term multi-methods be used to “indicate that different styles of research may be combined in the same research project. These need not be restricted to quantitative and qualitative; but may include, for example, qualitative participant observation with qualitative in-depth interviewing.” (Johnson, Onwuegbuzie *et al.*, 2007:119). This research used qualitative dominant methods as, unlike quantitative methods they are best suited to exploring attitudes, decision-making, and group behaviour. Using mixed-methods allowed me as a researcher “to mix and match design components that offer the best chance of answering [my] specific research questions” (Johnson, Onwuegbuzie *et al.*, 2007:15).

Although this is a single case-study design the in-depth multi-method approach used ensured that whilst findings are not externally representative, i.e. they are not necessarily generalisable to other police forces or criminal justice agencies who are implementing restorative justice policy, they are internally consistent (Westmarland, 2013:84) in that the findings produced describe the aspect of policy implementation across this particular force in depth. This research project uses four methods; participant observation, semi-structured interviews, focus groups, and document analysis. The next section outlines which methods were chosen in order to best answer the research questions.

### **Participant observation**

A multi-method approach was chosen so that “attention can be focused both on what has happened and on what the person says about what has happened” (Becker and Geer, 1970:32). Participant observation has been described as a ‘yardstick’ against which to

measure the completeness of data gathered (Becker and Geer, 1970:18). Participant observation allows for a greater awareness and understanding of the issues and challenges faced by the group to be developed: it continually pushed me to revise my theoretical orientation building on what Becker and Geer (1970:32) refer to as an ‘ever-growing fund of impressions, many of them at subliminal level’.

Participant observation fieldwork took the form of three informal meetings and attendance at five ‘restorative approach steering group’ meetings as outlined in Table 3. Handwritten notes were made during the meeting and fuller accounts were written up afterwards. I also observed both a full day training planning session and three days of training: two of these were Level 1 sessions and one was a Level 2 training session. The steering group was comprised of people selected by the Superintendent and Chief Inspector who were in charge of the implementation process; selection to be part of this group was not based on specific criteria. Members had been chosen either for their restorative justice experience or because of their personal characteristics; they were known to ‘get things done’, or it was believed they would add legitimacy to the project. In addition to these meetings there was also the opportunity to accompany members of the steering group on a full day ‘fact-finding’ mission to another force; notes were taken during the meeting with the other force. Whilst the information gathered was outside the scope of this research project going on the visit was invaluable as provided an opportunity to spend time with three of the gatekeepers to the project; the time spent travelling to and from the other force created an opportunity to discuss the research project and to get to know each other. This helped to build trust in the early stages of the research and undoubtedly aided the participation process (Hammersley and Atkinson, 1995, Souhami, 2012).

*Table 3: Details of Participant Observation Sessions*

<b>Visit to another force police</b>	Jul-12	Discuss how the force implemented restorative justice
<b>RJ Steering Group Meeting</b>	Jul-12	Develop steering group action plan
<b>RJ Steering Group Meeting</b>	Aug-12	Steering Group members to update
<b>Meeting Performance Manager</b>	Sep-12	Information regarding the recording of restorative justice
<b>Meeting Supt</b>	Oct-12	Organise Focus Groups
<b>RJ Steering Group Meeting</b>	Dec-12	Steering Group members to update
<b>RJ Steering Group Meeting</b>	Jan-13	Steering Group members to update before training

<b>RJ Training Mock up</b>	Jan-13	Mock-up/Run through of Training Package
<b>RJ Training Day</b>	Feb-13	Level 1 training session
<b>RJ Training Day</b>	Mar-13	Level 1 training session
<b>RJ Training Day</b>	Mar-13	Level 2 training session
<b>Debrief session</b>	May-13	One hour debrief session for steering group members and trainers

As the research developed I was included in steering group activities including attending meetings where various subgroup activities were reported back to the steering group. I attended a full day training preparation/practice session for steering group members to comment on the final format of the training before it was rolled out to staff. Once the initial round of training had been delivered to all frontline officers I attended a further de-brief session between the steering group members and the trainers. I was also given access to attend any of the training sessions which took place approximately twice a week for a two month period: I chose to attend one day of the Level 2 course at the start of the training period and the full two days of the course near to the end of the training period. I was principally exploring if the training information was consistent throughout the training period; the first day of the Level 2 course consisted of theory and information on conducting restorative encounters, whereas the second day consisted of role play sessions.

Participant observation at the start of the training sessions was also useful as it allowed for me to see opportunities to collect data. For example, at the very start of the new restorative approach training it was decided that all officers would be encouraged to name some of the pros and cons to doing restorative justice that they had experienced so far. The pros and cons were to be written on a flip-board and left at the front of room throughout the training so that each point would be addressed and any questions could be answered. Participant observation of early training sessions allowed me to recognise the opportunity of gathering a larger sample of officer's pros and cons and to compare these with the focus group discussion. I therefore requested that the 'pros and cons' flipchart paper be kept. Due to different trainers delivering the training, not all were; the pros and cons from approximately twenty five training sessions were provided. This would reflect the group discussion of approximately 250 – 300 officers, mostly frontline officers with some middle management attending. The findings from the 'cons' written during the training sessions reflect the focus group findings. Overall 290 'cons' were recorded compared to 59 'pros'. These were inputted into Excel and regrouped for analysis. Broad groupings were formulated based on whether they related to practical elements of 'doing' restorative justice or philosophical issues based on the idea of restorative justice. The majority of these relate to restorative justice being understood as being an 'easy' or a 'soft' option. It should be noted that during the two training sessions

that I observed it was the restorative justice trainers themselves, not the police officers, who suggested the idea of restorative justice as a soft option being a 'natural' reaction officers might feel. This is partly because the training session was geared to stressing that it was not an easy option: that offenders often found the process more difficult than other criminal justice sanctions. However, despite the initial suggestion by the trainers many of the officers present did nod, verbally agree, or put forward examples where they thought the offender had received an 'easy' experience, equally others disagreed with this statement and shared experienced where the offender had found it difficult.

Participant observation as method provided a wealth of information. The fieldwork had started with informal meetings and discussions with those involved in the initial implementation process, both from the force and partner agencies. This provided background and context allowing for some of the issues raised to be followed up during formal interviews. In addition I was able to observe many elements of the implementation process itself: this involved attending meetings with the dedicated 'restorative justice steering group' as they discussed the launch strategy and attendance at training planning sessions.

It was not possible to observe all elements of the implementation process, particularly private meetings amongst management and executive. However, it was possible to explore this element of the implementation process through interviews with the individuals concerned. It is also worth noting that the overarching 'steering group' broke into four further 'working groups' namely: Communication; Leadership; Performance, Accountability and IT; and Training. Each of these subgroups had a lead that sat on the main steering group and coordinated their working group's activity. I did not attend any of these smaller working group meetings: each working group was expected to have at least one representative attend and update the main steering group meeting with their progress, and identify and problems they were experiencing. As participant observation was used primarily to get a greater understanding of the issues faced, this summary of issues was sufficient and the extra time involved in negotiating access and attending these smaller working groups was not practical.

## **Interviews**

In order to explore the experiences of those implementing restorative justice policy and their perceptions of restorative justice in depth ten semi-structured interviews comprising of eight members of the restorative justice steering group, the Chief Constable, and the newly elected Police Crime Commissioner (PCC) were conducted. The secondary research questions required the exploration of the constraints, limitations and opportunities that occurred when implementing restorative policy. It was therefore useful to speak to the key people involved

in the implementation process individually. Interviews have been recognised as being “especially good at describing social and political processes, that is, how and why things change.” (Rubin and Rubin, 2011:3). Whilst participant observation enabled information to be gathered in relation to how this policy was going to be implemented, interviews were an opportunity to explore the reasons why, and the broader meanings around the methods of implementing policy that were chosen (Rubin and Rubin, 2011:6).

Interviews were chosen for members of the restorative justice steering group instead of focus groups because of the diversity of ranks that made up the steering group (from Sergeant to Chief Superintendent). Although the steering group is a group in itself one has to be mindful of the effect the formal hierarchies would have on the discussion (Krueger, 1994). It is argued that focus group discussions with pre-existing groups are valid as they enable the researcher to see how the group discuss a topic (Kitzinger, 1995) it was possible to observe this through attending the steering group meetings as a participant observer. Whilst there was a good working relationship across the steering group the rank structure was omnipresent. There was an informal awareness of the impact of hierarchies in group discussion, so for example, the training session debrief was purposefully not attended by higher ranking officers in order to allow for an environment where people felt more able to comment on the process.

Semi-structured interview techniques were used. This allowed the use of an interview guide but also to deviate from the guide if necessary; asking questions in a different order, following up on points raised by participants, or asking further questions that were not on the guide (Bryman, 2008). Two separate interview guides were used: one specifically for the Chief Constable and the PCC (Appendix A) and another for members of the steering group (Appendix B). The main difference between the two interview schedules was that members of the steering group asked specific questions in relation to why they were involved in the group. Comments were sought from my PhD supervisors on the draft interview guides; no pilots were run.

Interview questions were designed to aid the exploration of all three secondary research questions. The first of which is to explore how restorative justice is understood across the police force. Interviewees were therefore questioned in relation to their understandings: both of what restorative justice is, and what it is not. Whilst interviewees were selected specifically for their involvement in restorative justice this question provided some of the most interesting results from the thesis as it allowed for the variances in understandings across ranks and roles of officers to be explored. The schedule also addresses the remaining



secondary research questions in relation to both the constraints and limitations faced when implementing restorative justice and the opportunities leading up to the re-launch.

It was originally intended that members of the steering group would be interviewed twice, once at the beginning of the policy implementation and once at the end. For a number of different reasons, membership of the steering group began to decline once the initial training of police officers had started and very few of the original members attended the final meetings. At the end of the training a ‘structured debrief’ was run by an experienced facilitator from a different command who were not involved in restorative justice or the roll out of restorative justice policy. This structured debrief was very similar to a focus group: it was attended by remaining members of the steering group and those who had been involved in the training although, as previously noted, not by higher ranking officers. This session questioned those involved in the implementation of the force’s ‘restorative approach’ on what had worked well and what had not worked well. This session was part of my participant observation and provided a useful source of information around how those involved had found the implementation process.

### **Interview sampling**

This study used purposive sampling and aimed to conduct interviews with members of a restorative justice ‘steering group’ who were involved in restorative justice implementation. Two separate interviews were also conducted with the Chief Constable and the newly elected Police Crime Commissioner. These were the people who would be most able to provide answers to my research questions, whilst not representative this research aims to offer an in-depth insight.

All members of the steering group, the Chief Constable and the PCC were contacted via email; they were given an outline of the study, and they were invited to voluntarily take part in an interview at a time and location that was convenient to them. A positive response was received from all, although it was not possible to meet with all members of the steering group either due to their workloads or due to changes in the membership of the group. In total ten interviews were conducted. On average each interview lasted between approximately 30 – 45 minutes and 236.17 minutes of discussion around the implementation of restorative justice policy were transcribed, this was later analysed using Nvivo software.

### **Analysis**

Transcripts were analysed and data was coded thematically. The same coding framework was used for interviews and focus groups. An example of coding framework used is presented in Figure 4. Broad themes such as ‘opportunities’ were broken down into further categories. These in were sub-divided into further sub-sections.

- Opportunities:
  - Government changes
  - Leadership
  - Learning from past experiences
  - Other agencies
  - Problem Solving culture
  - Relationships
  - Steering group
  - Right time
  - Training
  - Understanding
  - Use alongside crime
  - Want
    - Hearts and minds
    - Open to using it
    - Organisational buy-in
    - See its potential benefits

*Figure 2: Showing an example of thematic analysis from 'opportunities' node*

### **Focus Groups**

The research used four focus groups across each of the force localities. Each focus group comprised of a mix of officers working across neighbourhoods, response and crime and justice commands. Thirty-one participants took part. The use of focus groups adds an important dimension to this research: it enables an exploration as to how restorative justice policies have been understood and accepted by police officers and PCSOs. Focus groups are useful means of eliciting the views, opinions and experiences of a target population regarding a specific set of issues (Barbour and Kitzinger, 1999). They enable the exploration of group behaviours: one of the advantages of using focus groups is to explore the 'dynamics' of these views and opinions as participants interact with each other as opposed to the more static way these attitudes are often presented in, for example, questionnaire studies (Morgan, 1988). Unlike participant observation, this method allows for the exploration of social psychological topics such as attitudes and decision-making (Morgan, 1998:9). Focus groups, therefore, provide a means to challenge assumptions, allowing participants to bring the issues that they deem to be important and significant into the discussion (Culley, Hudson *et al.*, 2007:102). This in turn provides a chance to gain a wider understanding of perceptions held by a group (Waterton and Wynne, 1999); due to the interactive nature of this method, other group members are able to comment on these issues, raise questions and

share experiences (Barbour and Kitzinger, 1999). Although what is key is the idea of group consensus through discussion (Bloor, 2001).

However, a focus group is a contrived form of research; unlike other data collection methods, such as participant observation, focus groups take place in an artificial setting in which the speech elicited, and therefore data collected, cannot be assumed to be naturally occurring (Kitzinger, 1995, Hollander, 2004). Hollander argues that all research situations are subject to social influences and that this ‘naturally occurring’ speech is “subject to the same kinds of interactional and contextual constraints as the ‘contrived’ speech that takes place in focus groups” (2004:605). It has also been argued that this contrived nature enables the discussion of topics that would otherwise be difficult to obtain (Fallon and Brown, 2002). Although the problems of group contexts are well documented, for example conformity pressures (Asch, 1956), and social desirability pressures (Goffman, 1959) this is mostly seen as being problematic when trying to measure individual attitudes or beliefs (Hollander, 2004), not when used for accessing ‘community’ responses to give insights into social norms and values (Waterton and Wynne, 1999).

### **Focus group sampling**

Due to the small-scale nature of this study it was not possible to achieve a representative sample to take part in the focus groups, however, it did aim to capture a diverse range of experiences by using a purposive sampling technique to ensure that a range of opinions from across the police force were captured. This sampling technique required time, thought and preparation so as to obtain a range of views and experience from across the police force whilst considering the availability of police officers to take part. Taking six police officers and two PCSOs off duty to take part in a focus group severely impacted on staffing levels in each locality. The only practical way to conduct these focus groups was therefore to work with the Superintendent to put forward a proposal that made the best combination of officers from a range of different roles. The Superintendent then contacted the Chief Inspector of each locality and asked them to nominate officers in each of those roles to attend a focus session. There was a small incentive for officers to attend if they were not on shift as the Superintendent offered to give back time and a half for any officer who came in on their rest day. Neither Chief Inspectors, nor participants were told the topic of the discussions. This was on the advice of the Superintendent in order to get a representative sample with a diverse range of views and opinions. It was suggested that if Chief Inspectors were told the focus group was on restorative justice they would have selected those with the most knowledge and experience to attend. Indeed, the Superintendent and those working in his command received numerous requests from people who wanted to ‘prepare’ for the session. Due to the effort involved in organising the focus groups and the subsequent opportunity of

having officers gathered, the Superintendent planned a two hour session: the first hour of which the Superintendent would conduct his own focus session on an unrelated topic. He would then leave the room and I would then explain the research and, importantly, stress to those gathered that taking part in the focus group session was voluntary.

In total four focus groups, lasting approximately forty five minutes each were conducted, one in each of the four force localities. Each focus group comprised of Police officers and Police Community Support Officers (PCSOs) from across three different commands. The force is made up of four commands: neighbourhoods, response, crime and justice, and tasking and coordination. Each focus group in each locality aimed to include eight officers in total: two police constables and two PCSOs from neighbourhood command – these are roles where one would expect the most knowledge and experience of restorative justice, two police constables from response – their experience of restorative justice would perhaps be more likely to involve restorative disposals for shoplifting offences, and two detective constables from crime and justice command – their experience of restorative justice would be for serious crimes such as assault, burglary offence. Tasking and coordination command were not included in the focus group sessions as their role in restorative justice was minimal at the time of the research and as the majority of this command are police staff it would have impacted on the frontline officer dynamic of the group.

The same focus group guide was used for all four focus groups. Once the Superintendent had left the room from the preceding session I initiated a break and provided refreshments of drinks and snacks. This helped to distinguish between the two sessions and there was a visible change in the group once the Superintendent had left; prior to this people had not known why they were being gathered and despite attempts from Superintendent to make it an informal session there was still some formality – for example, when talking to the Superintendent many of the group addressed him as ‘Sir’ or ‘Boss’. Some groups demonstrated the difference between the two sessions more than others; I was more familiar with one locality in particular and in this session I clearly experienced the ‘backstage’ informality (Goffman, 1959) that occurred once the Superintendent left, for this group I was accepted as an insider. However, for the other three groups there was less of a differentiation; the less I knew the locality (and conversely, the less they knew me), the more of an outsider I felt.

At the beginning of each focus group it was therefore crucial to explain my role, stating that I was a member of police staff as some people might know me, or know of me, but that I was there in a completely separate role as a PhD researcher. The focus of my research was outlined and it was stressed that taking part in the research was voluntary. If they were

happy to take part participants signed the consent form. The right to withdraw from the research at any time was explained and that the focus group sessions would be recorded but that all information would be anonymised. The confidential nature of the focus group session was stressed and all participants were asked to respect this confidentiality of the discussion.

### **Document analysis**

A range of different documents were available for analysis and were used to compare organisational understandings of restorative justice (i.e. definitions put forward in policy documents) with the individual understandings of restorative justice obtained from interviews and focus groups. Due to my insider status I was able to use a range of force systems and was granted access to use them as part of this research. With this access I was able to gather all information on the force's internal 'intranet' system, this included force policies, information documents, circulated items and notices that were available in the period leading up to the re-launch of the new restorative approach, during the re-launch and the period after. An initial meeting with one of the officers who was involved in the previous implementation was fortuitous in that he had retained many documents from 2009 onwards. Using the force secure internal email system these documents were all forwarded on to me. The documents included various versions of force policy documents, meeting notes and copies of newspaper articles publicising restorative justice. I also received information about the original training, including the details of officers trained and the training they received, training providers and some of the original training slides that were used. I received at least four separate emails with a total of seventeen different documents attached. All the documents were stored on a secure memory stick in accordance with the Government Protective Marking Scheme (GPMS) although the documents were a range of different markings from 'not protectively marked' to 'restricted'. I have no reason to believe that there was any selectivity in the documents that I received due to the way they were received: immediately after the meeting and sent in quick succession. If there were any missing documents I believe it was because they were not considered as important at the time and therefore not stored. Towards the end of the fieldwork I learned of new policy documents that were being compiled as well as some external and internal reports on the use of restorative justice by the force in a similar meeting with another of the officers involved in the implementation of the new restorative approach. These documents were shown to me in the meeting and forwarded straight on to my email address. Throughout the fieldwork I took the approach of asking for everything, this did mean I had a lot of documents. Whilst only a few have been selected for analysis in this research, the others all helped provide context and understanding. A list of the documents used in the final analysis is provided in Table 4.

**Table 4: Details of Documents Analysed**

Document	Details
Restorative Justice Force Procedures, February 2010	Final copy of the force policy in relation to restorative justice. The document provides guidance to practitioners on the application of restorative justice.
Restorative Approaches Procedures 2014	Draft copy of the force policy in relation to restorative approaches
Giving Victims A Voice By Giving Victims A Choice January 2013	Briefing document circulated to partner agencies providing an update in relation to the force's implementation of a restorative justice approach.
Northern Echo article 30/01/2014	Article in relation to the new restorative approaches being used.
PDF of two newspaper articles from 2010	Two articles, one from the Northern Echo dated 22/02/2010 and one from a local council newsletter in relation to restorative justice being used.
Restorative Approaches training de-brief document May 2013	Reports compiled by the Force to capture the key points from a structured de-brief session. The de-brief was held to obtain the trainers' perspective on the effectiveness of the Restorative Approaches Level 2 training process which took place in early 2013

## **Fieldwork**

### **Defining my research position: insider, outsider or the space between?**

When conducting qualitative research it is necessary to reflect on one's subjectivity; to acknowledge personal bias and in doing so "make the familiar unfamiliar" and the "unfamiliar familiar" (Ely, 1991). Defining my research position is an uncomfortable experience, one where I have to explore two separate identities: as an employee and as a researcher. It is important to consider in detail what my research position was, this section will start by outlining my role within the force and how, as police staff, I occupied a 'partial insider' position. It will then go on to discuss some of the advantages and disadvantages of this position.

As previously stated one of the reasons this fieldwork site was selected was due to the ease of access I had as a staff member. It is useful to discuss what my position is – in terms of my employment by the force and so an ‘insider’ but also as a member of police staff I did not belong to any of the police cultures that are identified as existing within a police force (Reuss-Ianni, 1983, Chan, 1996, Farkas and Manning, 1997) and so I was also an ‘outsider’. At the time of conducting the fieldwork I worked as an intelligence analyst in ‘tasking and co-ordinating’ command and on tasks unrelated to restorative justice. Interviews and focus groups all involved the other three commands. Although my role often involved consulting with other commands for my day-to-day work my fieldwork did not bring me in contact with anyone that I particularly knew or worked with. Secondly all work that I did in my ‘day job’ was unrelated to restorative justice, although those I worked with were aware I was doing a PhD and my broad topic – which did cause some challenges in my day-to-day working life which I will discuss in more detail below.

It is imperative to note from the outset that my role as police staff is very distinguished from that of police officer and as such I am not a true insider – this research is not an auto ethnography: I would not ‘pass’ as a native (Hayano, 1979). Indeed whilst research distinguishes different police cultures that operate amongst officers, little attention is paid to police staff’s role (Manning, 1993; Chan, 1996; Waddington, 1999). Police civilian staff, including police community support officers (PCSOs) are part of an ‘extended family’ (Mawby and Wright, 2012). Whilst they might share some of the same culture and language they do not share the same cultural bonds. There has been little research into civilian police cultures however, research into PCSOs acceptance shows a certain amount of hostility (Caless, 2007) and the conflict and ‘culture clash’ between my role as intelligence analyst and police officers has been highlighted (Cope, 2004). Cope (2004) raises many pertinent issues about the role of intelligence analysts within a police force, these include: civilian status, particularly the gendered nature of police organisations in relation to civilian staff; hierarchy; and the encroachment of certain civilian roles on officers’ ‘expert’ status.

The issue of hierarchy in particular needs to be stated: my grade as police staff is difficult to compare to that of police officers’ due to the difficulties of police hierarchical structures to fully reflect non-warranted police staff’s expertise and experience. Cope’s (2004) findings suggest the role of intelligence analyst would be equivalent to a sergeant, due to my supervisory responsibilities. It is useful to reflect on this, as I shall later talk about the importance of the focus groups I conducted containing no higher ranks. My police staff ‘rank’ as such, was not important –whilst it exists in civilian police culture and I see no conflict in that police officers or PCSOs (who are effectively two scales below my ‘rank’) would consider my grade/rank or see me as anything other than an office worker – albeit one

who is doing a PhD<sup>12</sup>. Cope also raises the issue of the police staff role of intelligence analyst as being one that encroaches on police officer's expert status (Cope, 2004: 197) this highlights the potential for conflict and tension between analysts and police officers. Although this is something my colleagues and I had all perhaps encountered in different ways during our employment, my fieldwork did not involve any officers that I had previously worked with or worked for so it was not a particular issue in this case. Cope's findings serve to highlight that there is often a tension between civilian staff and police officers, therefore whilst an insider in some respects in terms of belonging to the extended police family, I was an outsider to police officers' cultures.

### **Advantages of my research position**

Being part of the extended police family did have many advantages. In terms of access to the research site I was given unlimited access from the executive, and so had the freedom, ability and relative ease (i.e. movement in police buildings, access to computer systems) to look at any aspect in relation to restorative justice across the police force. Conducting interviews and focus groups was much easier than for an outsider; it was easy to obtain contact details for participants, book meeting rooms, and access police buildings. The settings were now familiar and after many years working in a police environment I was now comfortable and at ease: I can still vividly remember the culture shock I experienced in my first few months working both at a local police station and again when I transferred to a busy police headquarters; the nauseating smell of cannabis in the lifts and hallways from drugs seizures; a strange, almost fearful, 'have I done something wrong?' reaction when confronted with a raft of uniformed police officers; trying to work out the rank structure and forms of address – although on the decline there were remnants of higher ranking officers being addressed or 'Sir/Ma'am' - and many more things that felt strange at first but to which I have now grown accustomed. This 'culture shock' is a potential research obstacle (Nash, 1963), albeit one that quickly ceases (Aguilar, 1981) and so whilst it would not necessarily prevent an outsider from conducting this research it did mean that the fieldwork was quicker in that it did not require a period of acclimatisation or learning.

In addition, the ease at which I was able to attend meetings helped me to get a feel for all events and activities that were taking place – many steering group meetings were relatively informal and held in the canteen, they were sometimes cancelled or rearranged. From the start I was flexible and asked to be copied in to everything. Being an insider and being available through force systems meant that those organising meetings could see my

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<sup>12</sup> It was perhaps the role of doctoral researcher and associated affiliation with the University or, more likely, that the executive were backing the research that would impact on participants perceptions of me rather than my police staff role.



availability, I was visible on the internal force messaging system and simple things such as passing people in corridors meant they remembered to invite me to a meeting or to send me some information over. A further advantage of my 'insider' status was my ability to blend into these meetings and other research situations: by having access to the building and not needing to be signed in at reception and escorted at all times; wearing the same police force lanyard meant I was more 'invisible' and less likely to alter the research setting of a meeting or event (Hockey, 1993) compared to an outsider who would be required to wear a bright red 'warning' visitor's lanyard<sup>13</sup>.

One of the key advantages to my 'insider' status was my ability to appreciate the complexity of the force's re-implementation (Romano, 1968) in addition to my prior knowledge of the subcultural language and terms used by participants (Hockey, 1986). I had been employed by the organisation when the restorative justice was first introduced. I had an interest in restorative justice both from previous academic work and as a trained restorative justice facilitator volunteering with a local youth offending team (YOT) so had followed the initial implementation with interest, I also had an awareness of some of the broader issues surrounding policy implementation and with my academic background approached my time working with the police with a 'vigour of curiosity' (Hockey, 1993). I therefore had some prior knowledge of issues and language particular not just to policing but also to that force for example: discussion around computer systems and their capabilities and limitations, references to people or procedures. My knowledge around this meant that interviews and focus groups were better able to flow and progress without the need for clarification although as previously discussed I do not have complete 'insider' status and therefore there is 'partialness' to my insider knowledge (Hockey, 1993:199). I shall now go on to discuss this issue alongside other disadvantages to my research position.

### **Disadvantages of my research position**

Conversely, some of the perceived advantages of an 'insider' research position could prove to be disadvantageous – familiarity with language might mean key terms are overlooked, social structures may be too familiar to be noticed, patterns may be missed when analysing data due to taken-for-granted-assumptions (Aguilar, 1981). As much as I was aware of these potential disadvantages before embarking on the fieldwork I still experienced some lapses, such as one occasion where familiarity with language meant I accepted one participant's use of term "cuff" as in a 'cuffer's chart' or to 'cuff' a job. I had an intrinsic 'feel' for what the term meant and had not explored it any further in interview. It was not until during the

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<sup>13</sup> Whilst seeming a small almost trivial thing we had all been trained to watch for these lanyards – red signalled warning and we had to be prepared to challenge anyone wearing these lanyards if unaccompanied.

analysis when I struggled to explain the meaning that I realised I should have explored the term further. I was able to learn from this experience and I was able to informally explore the terms' meanings with colleagues (which in turn led to the discovery of formal definitions of the term using the police-access only knowledge-sharing website POLKA). In terms of over-looking aspects due to over-familiarity as a member of police staff and not directly working in the area of restorative justice meant that the topic I was exploring was a relatively new experience and one that I was curious about and interested in. I aimed to be as reflective on my fieldwork experience as possible, keeping notebooks and writing up my experiences. I also took a career break for my final year to enable me to think about my experience and, importantly to analyse the data and write up my findings as a researcher. This break allowed me to have some distance from my role as an employee and allowed me to think more critically (Srinivas, 1995). It also allowed me to reflect on some of the challenges I had faced whilst conducting my research, which I shall now discuss in more detail.

### **Challenges faced**

One of the main challenges involved juggling two identities as an employee and as a researcher. Whilst I have discussed some of the advantages and disadvantages of my partial insider position in terms of the impact on the research it is also worthy to acknowledge some of the challenges I faced doing my 'day job' as a result of doing my fieldwork in my place of employment. Whilst small and often seemingly unimportant, there were various pressures to contend with – what answer to give when some colleagues and superiors would ask seemingly innocuous questions such as 'how's your PhD going?' I found I developed a range of non-committal replies and often found myself being disparaging towards my research when among peers: when asked what I was doing I would respond 'it's not very interesting, just about restorative justice and stuff' – not the typical 'elevator speech' PhD students are encouraged to practice<sup>14</sup>. There was also the unmistakable impression amongst colleagues that, as a direct result of my doing this research, I was close to the executive – on various occasions my peers referred to me as 'having the ear' of the Chief Constable, which of course was not true. I often found myself taking pains to explain my thesis topic was something I had planned to do years ago, before working at the force, in a somewhat vain attempt to show that I had not chosen to do the research to get closer to the executive. I had not considered what my peers' reactions to my fieldwork would be before engaging in this research. There were also points where I was asked to input or 'look over' some of the

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<sup>14</sup> One of the many tips offered to PhD researchers is to practice a succinctly explanation of your research in a few short sentences – as though you had the opportunity of sharing an elevator with someone of importance and only had a few minutes to 'sell' your project.

documents providing updates on the restorative justice implementation process for tactical and strategic documents produced by my colleagues, for example. Again this is a very difficult position to be in and involved on the spot judgements regarding the line between passive observations and affecting the research.

### **Reflections on my research position**

This research did not intend to have an action research element, chiefly because the reimplementation process was to be completed as part of the 100 day plan, regardless of any findings from the initial focus groups. However, the Superintendent in charge of the implementation process was keen to receive feedback from the focus group sessions. As the focus groups took place before the re-launch of the new 'restorative approach' the issues discussed were relevant in that officers expressed many of the problems and issues they had been experiencing. During some of the sessions officers had put forward suggestions on how the process had could be improved: this was often pre-empted or followed with a direction for me to make sure to 'tell them' about a particular issue or solution. A short summary document for the Superintendent was produced which anonymously captured some of the key issues that had been covered during the focus sessions. It was difficult at times when observing the steering group not to input the initial findings from the focus group sessions. On one occasion, when observing the training session that was about to be rolled out to all police officers and staff I was asked by the group if I had any observations or input: reflecting on this I found this a very challenging session, it was difficult to detach from my normal employee role as a problem-solver, someone who is expected to have ideas and input them, to that of an observer.

A potential gap in the training was noticeable: many of the practical issues raised by officers during the focus group sessions had not been addressed. I felt obligated: firstly to the officers who had shared their issues with me, secondly to those involved in the implementation process who were all working hard to make the re-launch a success, and finally to the force as a whole: as an employee our general code or guidance is to "do the right thing". As such I didn't feel like it was right to hold back an idea that might be beneficial and I chose to put forward my opinion, based on the preliminary findings from the focus groups sessions. I felt that this was different to offering academic insight or general opinions: throughout the sessions I had noted but not commented on other aspects, for example, the definition of restorative approach being used or the lack of importance placed on the role of community. In my role as researcher it would not have been suitable to offer these opinions or suggestions and it almost certainly would have impinged on the research, affecting the overall outcome of the data gathered. After some discussion around the best way to address the issue I had raised, I offered to compile a checklist of the issues raised by

frontline workers. All participants in the focus groups sessions were contacted to ask if they were happy for anonymised information to be used as part of the training session. This was an opt-out, and most responded stating that they were happy for the information to be used in such a way; no one contacted me to say they did not want their data to be used. The checklist produced was completely anonymised, many of the issues had common themes throughout the different groups so the information was summarised and presented in bullet point form (see Appendix D). The checklist ended up being one of the only hand-outs used in the training sessions and I was able to observe officers referring to them, checking off the information they had been given. It was also a useful tool for the trainers who often referred to it; pointing out all the issues that would be addressed during the training session. I do not feel that offering this affected the content of the training delivered, but it was a useful aid to officers and addressed the concerns that they had raised with me about restorative justice.

## **Ethical Issues**

### **Access**

Before embarking on the research, ethical approval was obtained from Durham University School of Applied Social Science Ethics Committee. Prior to any fieldwork being conducted I had approached the then Deputy Chief Constable to discuss my research and received an incredibly positive response: I was offered unlimited access to any part of the organisation and I could have any data I wanted, no-holds barred. It was only after this meeting that the full research possibilities set in and the research questions began to take shape. Given the issues highlighted around negotiating and gaining access to a police force in fieldwork textbooks I had not anticipated the ease to which my access was granted. For example some warn that police forces tend to worry that fieldwork will ‘uncover the dirt’ and advise on the need to agree and sign ‘threshold agreements’ as part of the access condition (Fielding, 2006:282). I had raised the issue during initial meetings with the Chief Constable; questioning as to ‘what if’ my fieldwork uncovered problems or issues. The response was unequivocal that it would be a good thing; they wanted to know the true picture. I liaised with the then Superintendent who was managing the restorative justice implementation process outlining what access I would like and I received a formal letter granting me everything I had asked for, initially for a twelve month period, this was then extended as the restorative justice implementation phase overran.

In anticipation of any potential future conflicts due to my insider/outsider status I also ensured that the force’s professional standards unit were informed of my research and new access agreement, so that I would not be in breach of any force protocols if I were to access data or files relevant to the PhD research. Although this was never done in work time, it still

had to be done under my work login and password. This was a critical issue for me, as I was anxious with the cross-over between work and fieldwork. This type of risk was different to that featured on the risk assessment checklist – my concern was about how to manage the potential risk to myself as an employee if, for example, I accessed police systems without correct authorisation in place.

### **Data storage**

Other ethical concerns also carried additional facets, for example all focus group and interview transcripts were stored on a password protected secure server. I also had to store any police documents according to the Government Protected Marking Scheme (GPMS); for this I applied for force-issued encrypted memory stick. One of the benefits of an insider status meant that I was familiar with GPMS guidelines, which helped ensure that all data was stored securely and met all necessary requirements. Once I left the force on a career break this did create some stress, and the odd sleepless night, as all force documents and data had to be stored on the memory stick, there was no back up and encryption is such that failure to get the correct password within five attempts results in all data being wiped.

### **Confidentiality**

Essential ethical considerations were given towards protecting participants' privacy - the anonymity of all participants who took part in the focus groups was protected, however the anonymity of interviewees was not always possible; especially for those in higher ranks (especially the Chief Constable and the Police and Crime Commissioner). Before each interview it was therefore explained that whilst the transcripts would be anonymised, it might still be possible to identify them through their job role. All interviewees and focus group participants signed a consent form. As previously mentioned there were some potential issues around the voluntary nature of the research where some participants might have felt coerced to take part by the Superintendent. To counter this as best I could I made sure to clearly outline that taking part in the research was entirely voluntary, that they were free to go if they did not want to take part and that they could withdraw from the research at any time. Two potential participants did indeed choose to leave, one at the start when I explained the voluntary nature of the research. The second participant stayed for a short while but felt they did not have much to contribute to the topic and so left. However, when some heard about the research they chose to come and join the focus group without being directed by a supervisor/manager to attend. I am therefore confident that all participants voluntarily took part in the research.

## **Informed consent**

Whilst it was relatively easy for focus groups and interviews to ensure that all participants were given information regarding the research project to enable them to decide whether they wished to be involved this was more difficult for participant observation. All participant observation took part either with officers who knew my research position or in a restorative justice “steering group” or in a restorative justice training session. The initial steering group meetings I was unknown to many members of the group and at the first meeting there was no opportunity to introduce myself- it should be noted that this initial meeting was dominated by higher ranking officers who all knew the research well. This was rectified at the second group meeting where I had the opportunity to explain my research. I did not seek consent forms from the steering group in relation to participant observation, however I did contact everyone in the steering group asking if they would like to formally take part in the research through an interview, all agreed in principle to this although it wasn’t possible to interview everyone due to people’s schedules and the membership of the group did fluctuate over time. My presence at these steering group meetings was always overt, as that of a researcher, although for practical reasons I still wore my staff lanyard so I perhaps did not visibly stand out as a researcher.

## **Summary**

This chapter has outlined the research aims, objectives and the methods used in this study. The multi-methods approach employed, including the different methods selected have been described. It has defined my position as an insider/outsider researcher and consideration has been given to some of the advantages, disadvantages and challenges of my research position. The ethical considerations given to the research study have also been documented. The thesis will now move on to explore the police force chosen for this case study in more depth before progressing to examine the research findings that will examine the research findings. These are presented in three chapters: Chapter Seven explores police understandings of restorative justice, Chapter Eight considers the barriers and constraints affecting successful restorative justice implementation and Chapter Nine considers the opportunities for successful implementation.

## Chapter Six: Introducing the Case Study

### Introduction

This chapter provides context for the three empirical chapters that follow and will explore the use of restorative justice by the force being studied. It will outline some of the key events that are relevant to the implementation of restorative justice, including changes in leadership starting with the first implementation that occurred in 2008/9 and documenting the key events up to and including the re-implementation in 2012/3. It will discuss some of the practical issues of how restorative justice was implemented, including the training that was provided to officers. It will also consider how restorative justice has been used across the police force during that time and will attempt to document some of the transformations and potential cultural shifts the organisation has gone through during this four year period.

### A restorative force

In terms of the force being studied the general consensus is that restorative justice was not particularly used or considered, in policing terms, until 2008. Indeed there is no mention of restorative justice either in the force's annual report 2008/9 or in the strategic Police Authority plan 2008-2011. The clear driver for its implementation was a change in leadership. Summer 2008 saw the arrival of a new Assistant Chief Constable (ACC) who had previously been involved in the implementation and use of restorative justice across another force. It was the arrival of this new member to the executive team that prompted the initial implementation of restorative justice. Whilst the use of restorative process was not completely absent prior to this time it was used in a very limited way, mostly in relation to youth offending whereby a few officers had been trained as part of partnership working with the Youth Offending Service (YOS). Restorative justice was not embedded across the organisation. Describing that time, the then Assistant Chief Constable notes:

*“it [restorative justice] wasn't here ... when I probed a bit deeper I found out that one or two people had been trained ... and there had been two restorative justice workers attached to both the YOSs... but the police hadn't really supported them” [IV1].*

It is interesting to note this lack of restorative activity taking place across the police force prior to 2008 despite the introduction of restorative justice into the criminal justice system, as discussed in Chapter Three. The introduction of restorative justice across the youth justice through the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 had a negligible impact on the police force. Other avenues for the use of restorative justice, for example, with adult offenders were also available; none of which appear to have been utilised by this force up to this point. It was therefore over fifteen years from when

forces such as Thames Valley first started to use restorative justice that this force implemented it. The support and involvement of an executive member of the police force was the crucial factor. After the initial implementation the idea of restorative justice appears to have gathered momentum, and it began to be implemented in a systematic way across the force. Notes from the presentation at the Restorative Justice Consortium in July 2009 which describes the journey partnership agencies made in their attempt to be a restorative county describes how the Assistant Chief Constable had been “engaging with all RJ practitioners in partner agencies and *due to his position* this is helping to push further the boundaries and value of RJ in the county” [Journey In Establishing Restorative Justice / Practice Across The County Workshop Notes, 27 July, 2009, emphasis added]. This clearly highlights the impact, and the perceived impact, of leadership in the implementation process.

Having established the importance of leadership in the initial implementation process it is also essential to consider vision as this impacted on the way in which the first implementation was carried out. It was an ambitious aim; the Assistant Chief Constable’s vision was not only to create a restorative justice police force but to work with partner agencies with the aim of creating a ‘restorative county’. Furthermore the implementation was to happen immediately and rapidly. A presentation at the Restorative Justice Consortium in July 2009 describes how training with community police officers had ‘rapidly accelerated with the arrival of the Assistant Chief Constable’ (Morgan and Barton, 2009). The force’s annual report in 2009/10 highlights the force’s journey in a relatively short period of time. Whilst the preceding annual report had no mention of restorative justice it now stated that the implementation of restorative justice had begun and “training is currently being rolled-out to frontline officers across [the force area].” (2010:23).

Training first occurred in 2009, however, restorative justice disposals were not recorded as being used for crimes until 2010; even then the numbers were very low (it is likely that restorative disposals were mostly used for incidents and non-crimes but, due to force recording systems, the number of restorative justice disposals used for incidents during this time-period cannot be accurately traced). It is not until 2011 when larger numbers of officers are trained that restorative justice starts to be used more frequently by the force. As more officers are trained the number of disposals increases but the momentum was not maintained and their use declined throughout 2012. It is at this point it was decided that the re-launch of restorative justice, to be renamed ‘restorative approaches,’ would take place. The main reason for this re-launch was due to leadership being unhappy at the way in which restorative justice was being used, particularly with regard to a lack of restorative activity (in the form of restorative conferencing) taking place. Instead, similar to national findings



officers were using Level 1 instant conferencing in increasing numbers and the use of Level 2 was in decline. The opportunity to do something about this came due to a change in leadership. During the summer of 2012 it was announced that the current Chief Constable of the force would be retiring later that year. This provided an opportunity for the Assistant Chief Constable who initially instigated the use of restorative justice (and who was now Deputy Chief Constable) to lead the force for a three-month temporary period until a new Chief Constable was appointed. This change in leadership saw the creation of a '100 day plan' that was developed beforehand ready to be put into action over this three-month period.

There were also broader policy changes in place around the same time as discussed in Chapters Three and Four. In particular, towards the end of 2012 the Ministry of Justice launched the "Restorative Justice Action Plan". As discussed in Chapter Three this action plan aimed to providing a clear strategy for embedding restorative justice within the Criminal Justice System (CJS) and promoting consistency of its use across England and Wales. Whereas the previous Green Paper had focused on restorative justice as a means to promote community payback this action plan is focused on "giving victims a voice" it states that "restorative justice (RJ) provides opportunities for victims to be heard and to have a say in the resolution of offences." (November 2013:3). Whilst this potentially created some impetus for the re-launch it was a further leadership opportunity that instigated this second implementation.

The re-launch was just as ambitious in its scope, if not more so, than the first implementation. Restorative 'justice' was to be rebranded as 'restorative approaches' and there was to be a change in terminology from 'victim' and 'offender' to 'harmed' and 'harmer'. At the heart of the re-implementation plan was an ambitious training schedule that would see the majority of police officers and staff (over 1,000 in total) receive at least one day of restorative training. Frontline officers were to receive a further day of 'Level 2' training. This was a huge commitment by the force with a combined total of nearly 2000 of its officers and staff receiving restorative approach training in 2013. As Figure 6 shows the new 'restorative approach' disposal began to be used more frequently after this first round of new training. There was a sense of determination for restorative justice to be re-implemented: initial plans were for frontline officer training to take place during the '100 day plan'. This involved designing the training package, producing guidance documents, developing communication strategies and ensuring that force recording systems were adapted in order to effectively record restorative justice. A 'steering group' was set up comprised in order to achieve this. Whilst the steering group implies a bottom-up approach to the re-implementation it was created by a top-down process with senior ranking officers

selecting group members; some for their knowledge and expertise in relation to restorative justice, others to lend their credibility to the project, the steering group and the selection process will be discussed in more detail in Chapter Nine. Whilst the steering group was top-down in its selection process it did enable the reimplementation to have some level of consultation with middle managers and frontline workers. This helped to ensure that the new restorative approach was suitable across all commands and roles, including specialist units.

## **Training**

The initial implementation of restorative justice across this force saw very low numbers of officers receive what would be recognised as adequate training. The exact numbers and the nature of the training provided will now be discussed in more detail. This section will discuss the specifics of the first implementation in detail before proceeding to discuss the training package created as part of the re-implementation and the difference in approach between the two.

Over the first two years of its implementation few officers received training, as Table 5 shows. The first group of twenty officers received a one-day “Level 1 Basic Awareness of Restorative Practice” training delivered by Restorative Solutions in March 2009 followed by a further group of 76 officers who received the same training in November 2009. An additional five-day ‘Restorative Justice Mediation Training’ delivered by Durham County Council was also offered to officers both in 2009 and in 2010. Further two day courses offering “Level 2 Preparation and Restorative Conferencing” and “Restorative Practice Train the Trainer”. By September 2010 the total number of officers who had received some form of restorative justice training was 128 (with some officers attending more than one course).

*Table 5: Restorative justice training across the force from 2009 -10*

<b>Level 1 Basic Awareness of Restorative Practice</b>	22/03/2009	1	23
<b>Level 1 Basic Awareness of Restorative Practice</b>	11/11/2009	1	40
<b>Level 1 Basic Awareness of Restorative Practice</b>	12/11/2009	1	36
<b>Restorative Approach Mediation and Training</b>	16/11/2009	5	7
<b>Level 1 Basic Awareness of</b>	07/06/2010	1	20

<b>Restorative Practice</b>			
<b>Level 2 Preparation and Restorative Conferencing</b>	08/06/2010	2	11
<b>Restorative Approach Mediation and Training</b>	14/06/2010	5	12
<b>Restorative Practice Train the Trainer</b>	13/09/2010	2	8
		<b>Total Number of days = 18</b>	<b>Total officers attending = 157*</b>
<b>(*some officers attended more than one course: Total number of officers trained = 128)</b>			

Overall, the numbers trained, compared to the total workforce are low. Home Office statistics show the force at that time as having 1405 officers, 174 PCSOs and 128 specials. Plans were proposed via a ‘Business Change Initial Submission Assessment Form’ to create a localised training package “around the National requirements” consisting of “half day restorative justice and a half day customer service training”. This is believed to be rolled out to all officers, PCSO’s and Specials at the beginning of 2011. The numbers of officers who went on to attend this localised training package were not available. Crucially it was found that over time this one day training package was reduced to a session lasting just a few hours. Whilst I was unable to locate specific data on the number of officers who received the one day or few hour session, of the thirty one officers who took part in the focus group sessions for this research only thirteen spoke about receiving formal training: two officers had completed the more intensive five day programme; three received a one day training session and six received the reduced two hour training or what was described by some as a ‘briefing session’. Some officers in the focus groups were unsure if they had received training or not, and others did not specify if they had or had not received training. Eight of the thirty-one officers said they had not had any form of training at all: these were mostly Detective Constables working in crime and justice command or response officers.

Officers and staff therefore had to rely on colleagues’ advice, policy guidance, and information placed on the force’s internal ‘intranet’ website which contained a ‘knowledge bank’ of information that all officers and staff could access. The different training packages used meant there was a clear disparity in information given. It is worth noting that many restorative justice training packages are much longer courses – the University of Ulster, for example, requires eight full days tuition for its ‘certificate in restorative practices’. Training of one day (or less) might be beneficial for awareness-raising, and a two day course (whilst meeting best practice guidelines set by the Restorative Justice Council) might provide basic

skills but perhaps does not constitute rigorous training. Compared to the intense role play experience provided by courses such as the University of Ulster it is unlikely that a two day training course would provide officers with the skills and confidence to use restorative justice for complex cases (Chapman, 2013 personal communication). It was apparent throughout the focus group sessions that officers who had received more in-depth training displayed the greatest understanding and confidence in relation to using restorative justice than those who had received half-day training sessions. All officers had practical questions in relation to how to use restorative justice beyond basic scenarios, which were considered unrepresentative of their day-to-day policing experiences. This section will explore officer's narratives on the initial training that they received from the force before proceeding to discuss the ways in which the new training for the 2012/13 re-launch was to differ.

Exploring the training received by focus group participants it was apparent that neighbourhood officers had received the most training, often receiving more than one course. Whereas officers from crime and justice command were the group who had received little, if any training: "What training? I've never had no training that I'm aware of. No-one's ever said to me; you are going, here's a restorative justice package, here's a briefing package. Nothing. It's never been rolled out!" [FG2P2]. As the first roll-out had been for frontline officers then it was perhaps understandable that those in crime and justice command had the least understanding or experience of restorative justice and were unaware of the training. Some officers from response command also commented as to the lack of training that they had received: "I think, maybe, I wouldn't say we've been let down in response, but we haven't had this course. I know I certainly haven't, and I wouldn't know what avenues or processes are for restorative justice." [FG1PU]

Frontline officers described a wide disparity in the amount of training received from a few hours to a five day course. Some officers had attended both and whilst they found the brief session useful it was the longer, more intensive course that was the most impactful:

*FG1P5: "there was different sorts of training wasn't there? There was the training where you got sort of two hours ... or there was the that sort of rolled out week-long training where we learnt actually how to set up meetings and how to facilitate the meeting, it made it our responsibility"*

*FG1P6: "and why it works, how it works and then listening to victim after victim saying it worked for me it was the best thing that happened which you know ... it really brought the victim back into it ... And from that I thought yeah it has got a role because I had the same worries as everyone else I thought, you know we're here to catch criminals get them into the courts, get them punished but seeing it from the victim's point of view, but it took that week though it wasn't just a couple of hours"*

One officer described how, during the original training sessions, many officers were strongly opposed to the idea of restorative justice and it was only after receiving intense training by skilled trainers that they were won around:

*“I tell you what, that week’s course we did; the first two days were taken up with cops being very anti-restorative justice. Everything in the book was thrown at them, and the two teachers...it wasn’t teachers but erm coordinators or something and they were so skilled at basically taking the flack. And some of them [cops] were very aggressive, just very erm anti-restorative justice. And it was almost like they took it as a personal criticism that everything we’ve ever done is wrong. But they took all that on board and the last three days of the course we were able to go forward with it and we were able to go into why it’s a good idea, why it’s been successful but initially very, very, you know, thinking of ever barrier they could think of to stop it working, and why it wouldn’t work.” (FG1P6)*

This anecdote powerfully describes how many officers are reluctant to change and to consider restorative justice. That it took days of training with skilled coordinators is an important issue in terms of the strength of feeling from the officers and the time and skills need to break down those barriers. It is therefore unsurprising short courses and training sessions had little impact on some officers.

There was the belief that the short course (and seeing restorative justice being used by their peers) would stimulate interest amongst officers who would then want to do restorative justice, learning on-the-job and equipping themselves with knowledge and information needed as necessary. When questioned, many officers were unhappy with the ‘self-development’ aspect to learning; the idea that the policy documents were made available and officers were expected to carry out restorative justice, often with little or no formal training. For them, training would enable them to use it confidently and a crucial element of training was practical examples relevant to their role:

*Researcher: So in terms of how the Force ... what, for you, are the most important things for when new policies are implemented?*

*FG4P5: we need to be told about them really, a bit of training would help*

*FG4P4: just to understand how you can use them and be confident with using it*

*FG4P5: I think it’s just left to the individuals to learn themselves to develop themselves in that way, to practice it. Otherwise. No I’ve not seen any documentation or training on it.*

*FG4P3: there is training but then you rely on self-briefing yet again*

*FG4P5: yeah yeah self-development*

*FG4P3: but then maybe you know you need somebody to come out and talk about restorative justice and speak about positive stories from it and give examples of it and then, hopefully, that would see more of it.*

Only frontline officers receiving training compounded the issue of self-development. For many frontline officers their supervisors and senior management teams had not received the same information on restorative justice as they had. Therefore, there was often little encouragement – or sometimes even active discouragement – from supervision in relation to restorative justice. Issues surrounding management buy-in to restorative justice will be discussed further in Chapter Eight; however, the lack of training to the higher ranks is an important point when considering how the initial training was rolled out. That the initial training to implement restorative justice across the police force was only directed to frontline officers, the number of staff who received accredited training was small, and that often the training sessions themselves comprised of a short two-hour session was not considered to be as beneficial:

*We saw the other [short, two hour] training, didn't we? And we thought 'you know that's nothing compared to what we had!' Why has everyone not had that training, you know? And it wasn't as if we were flagship people whose job it was to, sort of hold the banner in front of everyone else [laughter] Everybody should have had the same sort of training [pause] it costs a fortune I suppose [laughs]. [FG1P5]*

The new attempt to embed restorative justice involved an ambitious training schedule whereby nearly every officer received a basic (Level 1) one day course. The training plan also included police staff, across all roles, particularly those with supervisory responsibility. Senior management teams were to be briefed separately as the buy-in of supervisors was acknowledged throughout the process. All frontline officers would also receive a second day training – equivalent to 'Level 2' training – which focused on restorative conferences and included some elements of role play. There were logistic issues due to the number of staff; it is unusual for this number of officers and staff to take part in one/two day training sessions, particularly in the current economic climate with the force already under pressure due to budget and staffing cuts.

This training was designed and delivered in-house and took place in two 'waves': the 'first wave' would be the two day Level 2 training for all frontline officers, this was followed by a 'second wave' that delivered a slightly modified one day Level 1 training session to the rest of the force. The re-launch clearly learned from its first experience for implementation in three key ways: firstly it trained the majority of the force across all commands, ranks and roles, secondly all officers and staff received the same training at roughly the same time enabling a more consistent message to be delivered across the force; thirdly while it may not have been particularly empowering, or bottom-up in its approach, it did involve a variety of

officers and staff in the training planning, both through the steering group and pre-training sessions.

Training was seen as a failing for the previous implementation: “one of our weakest links has been the delivery: our training was crap and we had the wrong people delivering it, they weren't passionate about it, they read from a book” [IV1]. For the reimplementation therefore the training package was again designed and delivered in-house; members of the steering group personally selected the people chosen to deliver the training. This was a time-consuming process and due to the nature of the reimplementation occurring on a ‘100 day’ timescale it left little time for preparation. Reflecting on the training during the debrief session it was a ‘universal view’ of all involved in the training planning and delivery that ‘the right people’ delivered it [2013:4.1]. Training sessions utilised a mixed pairing of one trainer and one practitioner; this was regarded as being ‘very worthwhile’, it was believed that the “passion and commitment of the training staff was clear which assisted to deliver a consistent message” [2013:4.1].

The preparation for the training session was also considered a substantial improvement on the previous implementation. This preparation involved run-throughs with police officers and PCSOs to garner their views. It also comprised of a ‘Train the Trainer’ day where the whole training package was delivered to all members of the steering group and other interested parties who were invited to comment (this included those who had received training before, those who would be involved in the training delivery and representatives from different commands and specialist units, for example roads policing unit in order to ensure that the training package delivered a consistent message, that there were no faults, or missing information, and that it was relevant to all sections of the force. This was assessed by the trainers at the de-brief session as being ‘very worthwhile’ [2013:4.3]. Although, there was criticism that, as with many elements of the training, it was felt that it was rushed and by occurring just days before the training was to be delivered it did not leave a lot of time to implement change.

The first wave of training started in January 2013. By spring 2014 over 2,000 police force officers and staff had received training in restorative justice. The force staffing figures for 2014 were approximately: 1,370 officers, 780, 133 special constables, 172 police community support officers (Force website, accessed 02/12/14). That the vast majority of staff received training in restorative justice highlights the force’s commitment to the re-implementation. Re-branded as a ‘restorative approach’, the idea was to be a ‘restorative organisation’: new posters reinforced this message with the idea that restorative approaches were to “cover every strand of the organisation”. This was no longer a process just for frontline officers, or

neighbourhood policing: every command, every role, was expected to understand the basics of restorative justice and to actively use it, when appropriate.

## **Use of restorative justice**

This section will detail how the police used restorative justice from its first implementation until December 2013 when the fieldwork ended. It is worth reiterating that due to the crime/incident recording system it is only possible to examine *crimes* where restorative justice has been used. Restorative justice has also been used for large numbers of incidents but it is not possible to systematically retrieve the data to analyse its use for this study. The police intelligence system (SLEUTH and the analytical search function iBase) has two separate databases– one for incidents, one for crimes. The yes/no restorative approach tick box is only available on the crime system, not the incident system. The incident data system captures all incidents reported to the police; the crime system covers those incidents whereby, for victim-related offences, on the balance of probability circumstances amount to a crime as defined by law. Whilst restorative justice, in theory, should only be used when a crime has occurred and there is a clear victim and offender as a process it was used by the police force for incidents and non-crimes, for example, incidents of anti-social behaviour. Given the issues with force recording the use of restorative justice for crimes as a ‘non-sanctioned detection’ up until October 2013 and the problems that officers faced due to this Home Office counting rules, as will be discussed in Chapter Eight, it is likely that a lot of restorative justice activity is missing through this lack of data. However, the crime data does still provide a reliable indication of its use for different offences (Table 6) and how its use for different crime types has remained the same during both implementation periods in 2011 and 2013 (Figure 5).

Table 6 uses the Home Office classification tree to analyse the different crimes for which restorative justice was used. It shows restorative justice being used for a variety of crimes, across the police force. Mostly for theft offences (43.5%): in particular for shoplifting (29.7%). This would mostly be in the form of a Level 1 restorative process carried out by response officers. It has also been used for criminal damage (25.5%) and violence against the person, both without injury (11.0%) and with injury (13.1%). The data shows restorative justice was used for serious offences, including sexual offences (n=2) and robbery (n=2).

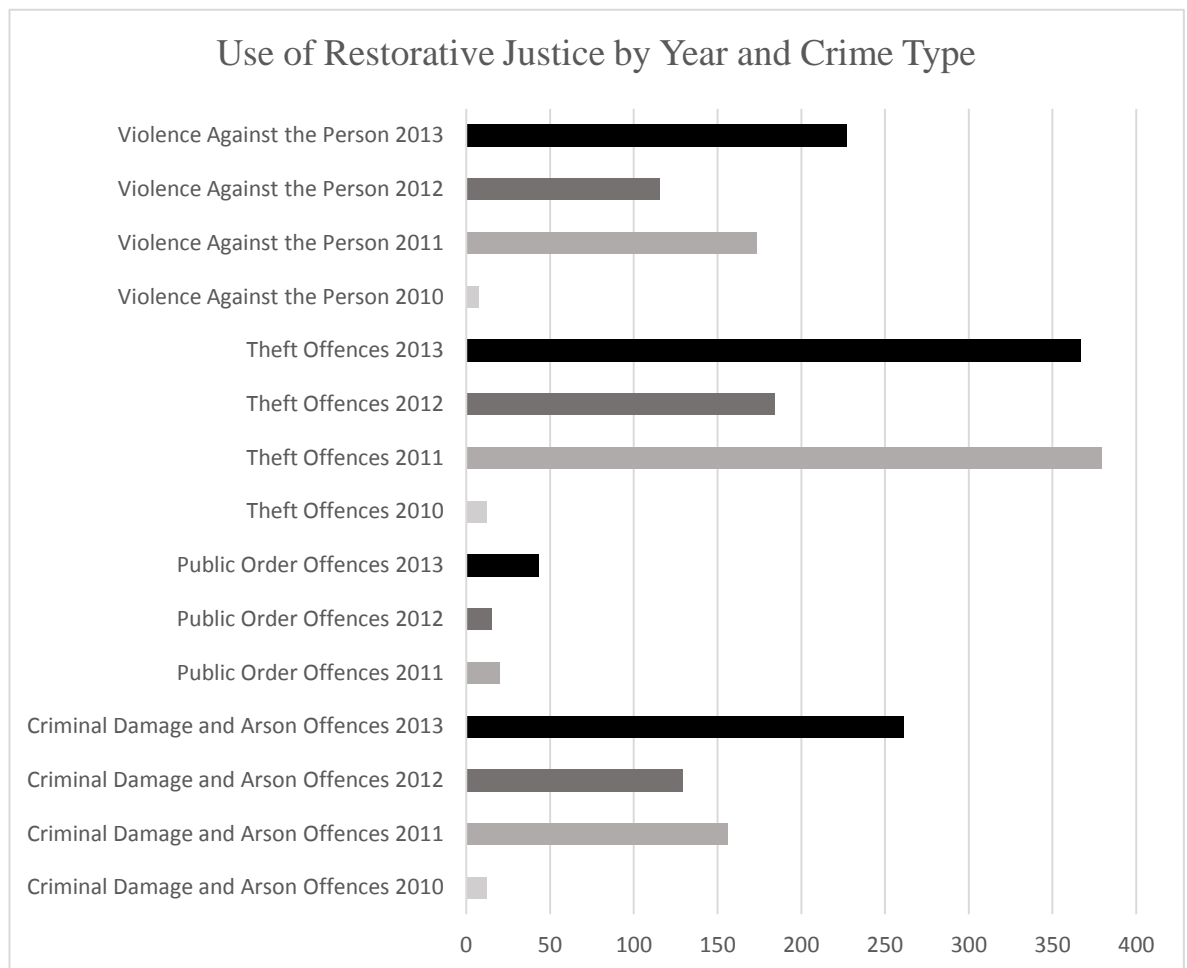


*Table 6: Showing the use of restorative justice by crime type*

Total crimes where a restorative approach was used  N= 2165	Victim – Based Crime N = 2026 (93.6%)	Violence Against the Person N = 522 (24.1%)	Violence with Injury N = 284 (13.1%)
			Violence without Injury N = 238(11.0%)
			Homicide N = 0
		Sexual Offences N = 2 (0.1%)	Rape N = 0
			Other Sexual Offences N = 2 (0.1%)
		Robbery N = 2 (0.1%)	Robbery of Business Property N = 1
			Robbery of Personal Property N = 1
		Theft Offences N = 942 (43.5%)	Burglary N = 34 (1.5%)
			Vehicle Offences N = 36 (1.6%)
			Theft from the person N = 7 (0.3%)
	Bicycle Theft N = 18 (0.8%)		
	Shoplifting N = 642 (29.7%)		
	All Other Theft Offences N = 205 (9.5%)		
	Criminal Damage and Arson Offences N = 558 (25.8%)	Criminal Damage N = 542 (25.0%)	
		Arson N = 16 (0.7%)	
	Other Crimes Against Society N = 97 (4.5%)	Drug Offences N = 6 (0.3%)	Trafficking of Drugs N = 0
			Possession of Drugs N = 6 (0.3%)
		Possession of Weapons Offences N = 3 (0.1%)	
		Public Order Offences N = 79 (3.6%)	
		Miscellaneous Crimes Against Society N = 9 (0.4%)	
Fraud N = 42 (1.9%)			

Of note, is that the use of restorative justice was similar across both the first implementation and for the initial stages of the re-launch. The re-launch did not particularly have an impact on the *types* of crime restorative justice was used for, or the *numbers* of crimes that restorative justice was used for. Figure 5 demonstrates that whilst there were small fluctuations in the numbers of crimes it has consistently been used for violence against the

person, theft offences, criminal damage and some public order offences since it was first implemented. It was not initially used for low-level shoplifting offences and then over time began to be used for more serious offences, or offences that had a more clearly defined victim and offender, such as violence against the person offences. What Figure 5 and Figure 6 both show is that there was a distinct drop in the use of restorative justice, for all crime types during 2012.



**Figure 3: Use of Restorative Justice by Year**

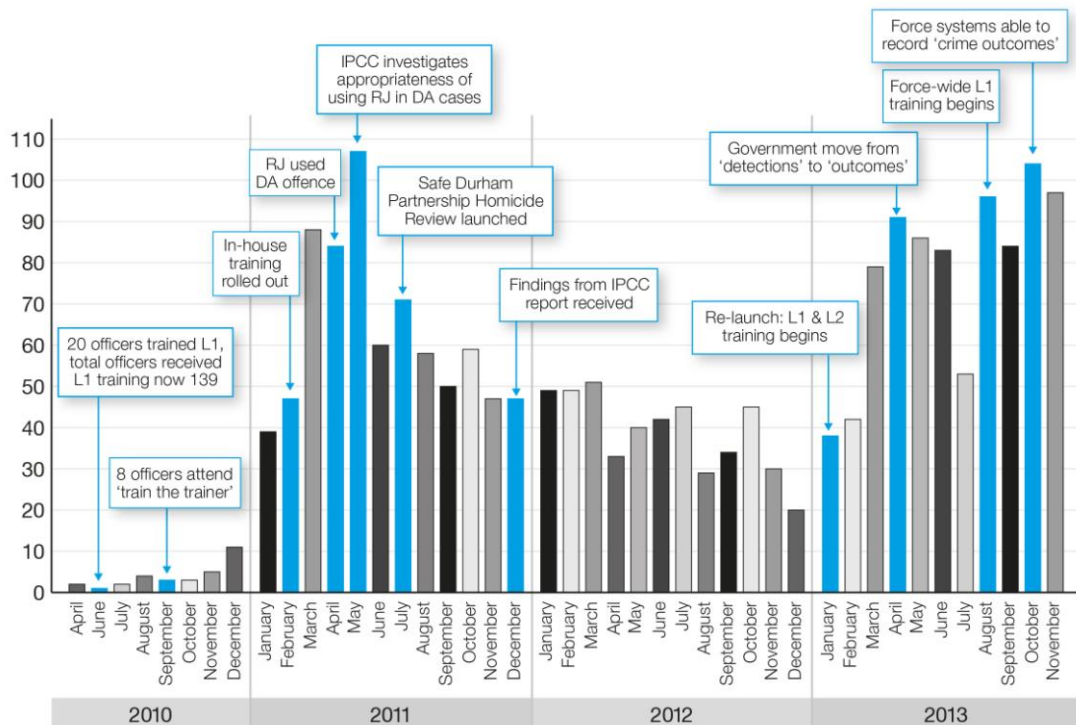
Considering overall patterns in the use of restorative justice across the police force over time using Figure 6 and Table 7 one can see the impact the initial implementation had and the impact of training in particular. It clearly gained in momentum as more police officers were trained but then experienced a decline, either due to an ‘implementation dip’ which has been found to occur across other organisations implementing restorative justice (Lambert, Johnstone *et al.*, 2011). Importantly these figures show no difference in the number of restorative disposal used, or any significant change in the type of crime that restorative justice was used for. The majority in both periods still relate to its use for shoplifting (theft) offences. The data in Table 7 and Figure 5 do show a decline in the use of restorative justice

during 2012. Figure 6 compares the use of restorative justice with key events which may have impacted on its use.

*Table 7: The number of restorative justice outcomes following force training*

Month	Number of crimes using RJ in 2011	Number of crimes using RJ in 2013
Jan	39	38
Feb	47	42
March	88	79
April	84	94
May	107	88
June	60	84
July	71	54
<b>Total</b>	<b>496</b>	<b>479</b>

There are two events that occurred that could have potentially have had an influence on the use of restorative justice, the first a negative impact and the second a positive impact. Firstly in 2011 an incident involving the use of restorative justice for a domestic violence incident was referred to the Independent Police Complaints Commission (IPCC).



*Figure 4: The impact of Events on the Use of Restorative Justice*

Secondly in 2013, the reimplementation which saw the roll-out of training to include all staff and also the ability to record the use of restorative justice in-force as a ‘crime outcome’.

Unfortunately the fieldwork for this research ended in December 2013. Further research is needed to understand the impact of this change on the use of restorative justice. This chapter will provide some detail in relation to the key issues surrounding this first event before proceeding to explore the overall opportunities and constraints that affected the implementation of restorative justice in more detail in Chapters Eight and Nine.

## **Impact of events**

### **Use of restorative justice for domestic abuse**

As discussed, the initial restorative justice training was delivered to staff from February 2011. At the time of rolling out this training there was a draft policy on the use of restorative justice in place across the force. The rollout of restorative justice had been implemented very quickly and as the figures show it was starting to be used for many crimes. It was used for one incident that would put the force under scrutiny and change national policy on the use of restorative justice in domestic abuse cases. In April 2011 an officer attending an incident of domestic violence had resolved the incident using a Level 1 instant restorative disposal. Less than one month later the woman was killed by her husband. Due to the previous contact with the police the Independent Police Complaints Commission (IPCC) considered the incident in detail; including the decision made by the attending officers to use a restorative approach, the restorative justice training that had been implemented, force procedure on the use of restorative justice as well as local and national policies in relation to domestic abuse and restorative justice.

The key findings from the report found ‘no direct correlation’ between the use of a restorative disposal in April 2011 and the incident the following month and that the officer’s use of restorative justice, and the supervisor’s decision to endorse the use of restorative justice were ‘understandable’ given the circumstances of the case and the training received. There were criticisms in relation to the officer’s failure to take a proactive approach and it was noted that “there was a conflict between the force policies on restorative justice and domestic abuse, the first seeking to divert offenders from the criminal justice system, the second promoting positive action against offenders” (IPCC Finding 4, as cited in Partnership Domestic Homicide Review). It was also noted that the training was ‘confusing and lacked clarity’ and the various draft versions of the restorative justice policy that were in place at the time training was delivered may have added to the confusion. The key dates in relation to this event and the subsequent review are shown in Figure 6. There is a clear decline in the use of restorative justice following the incident and the subsequent referral to the IPCC. However, this incident was not referred to by any of the officers across any of the focus groups. Furthermore the use of restorative justice did not stop altogether. Further research is

needed to investigate if the use of restorative justice declined as part of a natural 'implementation dip' as often occurs across organisations (Lambert, Johnstone *et al.*, 2011).

### **Organisational changes**

Three key changes to leadership occurred during this time period: the replacement of the old police authority, the appointment of a Police Crime Commissioner, the retirement of the force's Chief Constable and subsequent promotion of the Deputy Chief Constable to temporarily (and later permanently) be Chief, and the retirement of three of the five Chief Superintendents. Changes to the command structure as part of the new force operating model saw the reduction of the number of Chief Superintendents from five to three. Further to this these changes in top command were more run-of-the-mill changes to middle management who saw many frontline officers that had taken part in the original restorative justice implementation now promoted to Sergeant or Inspector level. The biggest change to top command was undoubtedly the change in executive, as discussed in the Assistant Chief Constable who initially implemented restorative justice in 2008 was promoted over that time Chief Constable: re-launching 'restorative approaches' during the initial temporary '100 day' appointment. Chapter Nine points to this being the most significant change that brought about both the implementation and subsequent re-implementation of restorative justice across the force.

### **An evolution from restorative justice to restorative approaches**

The below images and text were taken from the taken from the force's internal website or 'intranet' which is accessible to all police staff and officers. As part of the reimplementation process a decision was taken to change the terminology used from restorative justice to 'restorative approaches' and to refer to victim and offenders as harmed and harmer. As discussed in Chapter Four, this use of buzzwords (Hunter and Barker, 1993) might be indicative of a lesser, more cosmetic shift rather than true reform. However, there was a substantial change in the definitions now employed by the force suggesting the aim is towards a more substantive change.



**Durham Constabulary is committed to embedding the use of Restorative Justice principles into everyday policing in order to reduce crime, the fear of crime, reoffending and to enhance community cohesion and victim satisfaction that will ultimately lead to an improvement in public confidence.**

- RJ is a powerful tool that when used appropriately can effectively resolve issues to the satisfaction and benefit of those involved.
- RJ focuses on the victim whether it is an individual, a group or the community as a whole.
- RJ places victims at the centre of the process not outside with little or no control.
- RJ is based on the theory that crime and wrong doing is an offence against an individual, group or community not the state.
- Restorative justice that fosters dialogue between victim and offender shows the highest rates of victim satisfaction and offender accountability.

Durham Constabulary is committed to the delivery of excellent policing. Restorative Justice will inspire that confidence and ensure that our victims are satisfied with the service we provide.

**(Image and text taken from Durham Constabulary's intranet 10 January 2013)**



### **What is Restorative Approach?**

Restorative Approach is a process that brings those harmed by an incident and those responsible for the harm, together, enabling everyone affected to play a part in repairing the harm and finding a positive way forward

### **Benefits of Restorative Approach**

- Restorative processes allow the harmed the chance to tell the person responsible the real impact of their actions to get answers to their questions and maybe an apology.
- It promotes victim empowerment and some form of closure.
- Restorative Approach holds the person who has offended to account for what they've done helps them understand the harm they've caused, take responsibility and make amends.
- It will also help reduce reoffending, improve victim satisfaction.
- In the long run reduce demand for our services

**(Image and text taken from Durham Constabulary's intranet 30 March 2013)**

*Figure 5: Comparison of organisational definitions of restorative justice over time*

The cartoon image used by the force when restorative justice was first launched is one that was used by many police forces at the time. It could be argued that it does not present a very positive image for what restorative processes are about and potentially impacts on the meaning of restorative justice - this is the first image that those landing on the 'restorative justice' webpage would see. It is interesting to note that this image is one used by other forces (Waistnage, 2013) but only accompanies internal police descriptions of restorative justice, as though it is a private joke.

The overarching message in the accompanying text clearly focuses around the Force's values and aims at the time: reducing crime, reducing reoffending, reducing the fear of crime and increasing victim satisfaction. These are all performance measures. The aim of

restorative justice is therefore intrinsically linked to the overarching aim of the force; it states that that the Constabulary is:

*“...committed to embedding the use of Restorative Justice principles into everyday policing in order to reduce crime, the fear of crime, reoffending and to enhance community cohesion and victim satisfaction that will ultimately lead to an improvement in public confidence.”*

The aim is therefore clearly set out – restorative justice’s aim is to help the force achieve its targets.

The new restorative approach text is markedly different from past understandings although this is mostly due to the style of language used. Force performance targets of reducing reoffending and increasing satisfaction are still present. The image used for this does not focus on the core themes of restorative justice, instead it considers core organisational themes and how a restorative approach can help it achieve these aims through promoting confidence, problem-solving, excellence and victim confidence.

Having discussed the force evolution from restorative justice to restorative approaches this final section will show what this change may potentially mean for restorative practices. Two press articles, one from the initial launch in 2010 and a more recent article taken from after the re-launch were compared to consider how offenders and the restorative process is described. As the two documents show there is clear difference in language and key terms that indicate that a move towards a restorative approach has started to occur. The articles released in 2010 refer to anti-social behaviour being ‘tackled’ with restorative justice whereby the teenage offender was “ordered to pick up litter as punishment” (Northern Echo, 22/02/2010). There is a lack of emphasis on garnering the offender’s consent, thereby removing the offender from being seen as a primary stakeholder and implying an unbalanced focus between the victim and the offender (Dignan, 2005). This is furthered by a lack of reference to the offender being involved in the process. The victim may have ‘a say’, however, the role of the offender is omitted and therefore the importance of victim and offender interaction is neglected.

A press release relating to the re-launched restorative approach follows the new tone. It featured a similar incident to the previous article and involved a fourteen year old boy throwing stones at a vehicle; in this case it was a public bus, which resulted in one of the windows being smashed. The news article appeared in the same local newspaper as the previous story. The headline states “Bus Company working with police on restorative justice scheme” and the photo features the depot manager of the travel company standing with the PC. The article opens by stating “A travel company is working with police on a restorative justice project after one of the windows of a bus was smashed by a 14-year-old throwing

stones.” (Northern Echo 30/01/04). There is a more measured tone to the article: it does not mention ‘anti-social’ or ‘unruly’ behaviour, the police did not ‘tackle’ this young person’s behaviour by ‘ordering’ him to do community work as ‘punishment’. Instead this article describes how the ‘youngster’ attended the depot “where he cleaned a bus and spoke to staff about the impact of his actions”. The use of the word ‘spoke’ in relation to the offender is a markedly different experience to what, one presumes, the young person involved in the earlier incident that was covered by the press. There is a quote from the Depot manager who describes how: “We sat down with this young man and told him the potential implications of people who could have been injured and the inconvenience to all of our customers of keeping a bus out of service for it to be repaired.” Whilst there is no statement in relation to the mutual interaction or the input of the offender there is an implication that the process had a higher level of interaction than was described in the first press release, there is a clear change in terminology over time.

<p><b>Litter-pick earns offender clean slate</b></p>	<p><b>Bus company working with police on restorative justice scheme</b></p>
	
<p>A TEENAGER spent the weekend picking up litter as punishment for his anti-social behaviour. Police ... caught the 13-year-old, who cannot be named, throwing things at traffic...</p> <p>As part of the restorative justice programme, which encourages offenders to face up to their actions by working in the community, the youth had to tidy-up the local area.</p> <p>...the council’s cabinet member for neighbourhood services and community safety, said: “The restorative justice programme allows offenders to see the consequences of their actions while working for the good of the community.</p> <p>“Residents should be confident not only that police are working with our anti-social behaviour teams to crack down on trouble-makers but also that those who do misbehave will be punished.”</p> <p><b>(Image and text taken from The Northern Echo, 22 February 2010)</b></p>	<p>A TRAVEL company is working with police on a restorative justice project after one of the windows of a bus were smashed by a 14-year-old throwing stones.</p> <p>Earlier this month, the teenager attended the Arriva depot, based at Belmont Industrial Estate, in Durham, where he cleaned a bus and spoke to staff about the impact of his actions.</p> <p>[Depot manager] said: “We sat down with this young man and told him the potential implications of people who could have been injured and the inconvenience to all of our customers of keeping a bus out of service for it to be repaired.”</p> <p>[Police Constable] said the restorative approach had been used by the force for several years and was proving effective and deterring young people from getting involved further in the criminal justice system.</p> <p>He said: “It would be better if this had not happened in the first place, but the restorative approach means we can take something negative and turn it into something positive.</p> <p>“We would urge victims of crime to consider getting involved with it to see that some good from meeting the young person who has offended against them. It is not a soft option.”</p> <p><b>(Image and text taken from The Northern Echo 30th January 2014)</b></p>

Figure 6: Comparison of press releases in relation to restorative justice from 2011 and 2013



Overall, these may seem like subtle differences; however, they are indicators of a larger culture shift. When restorative justice was first launched in 2009/10 it was co-opted into the prevailing attitudes and dialogue. The inclusionary language of 2014 would have been as alien to the person writing the press release in 2010 as the aggressive enforcement message in the earlier article appears to those practicing restorative justice today. These subtle changes in language demonstrate the extent of the reform undertaken by the force over this four-year period.

Caution does still need to be exercised. The evolution towards a progressive or restorative police force would need strong commitment by top command; implementation and day-to-day running is costly and would need enhanced resources particularly in relation to officer's time; it would also require public support; and importantly it would need to be accepted by all officers across rank and role (Hunter and Barker, 1993:158). The force de-briefing session that took place after the first round of Level 2 training had been delivered suggests that the reimplementation was not as easy as first envisaged. Officers present at the debrief session felt that the force had "pushed through very quickly with this change to being an R.A. [restorative approach] organisation and that some Crime and Justice partner agencies have been slower to make progress and are being left behind" [2013:3.1]. There are concerns that the '100 day plan' in itself was a top-down process and left little opportunity to garner support from either frontline officers or from the wider community.

There is also concern in relation to the 'voluntariness of *facilitators*'. It was noted in the debrief session that:

*"The attendance on the courses was noticeably high with few officers failing to attend their allocated course. It was acknowledged that Supt's ... were contacting those who failed to attend by telephone and held them to account. Word of this appeared to spread quickly."* [2013:6.2]

In addition to compulsory attendance at the restorative approach training session, which is not in itself unusual, although receiving a personal phone call from the Superintendent if an officer did not attend is in itself a novel way to deal with non-attendance. After receiving their training all officers received a copy of a hand-written letter from the Chief Constable. In the letter the Chief expresses that he hope they have enjoyed their training and why the force is re-implementing the new restorative approach. It states:

*"The reason we are taking so much care over restorative approaches is because it is so important to our vision. We need to significantly reduce the incidence of re-offending and restorative approaches are proven to work. Most importantly of course it gives victims a voice."*

The letter goes on to express some of the difficulties in embedding restorative justice within the organisation. It notes: “Well as far as I am concerned we are steaming on with RJ. It is going to be a central plank of policing practice [in the force] and I expect all staff – not just the frontline to understand it.” Furthermore the Chief requests that all officers who have attended the Level 2 training course not only understand it, but also use it:

*“What I expect from everyone who attends the training is to put it into practice in the next couple of months: - even if only as an observer – if a conference cannot be arranged otherwise. I will also be asking your supervision to assist in these arrangements – so please discuss it with them to ensure you are able to involve victims actively in the restorative process. Good luck.”*

This is clearly a top down request that all officers are expected to undertake, or observe, a restorative conference within a few months of training. It is a bold move and it sends a strong signal of the Chief Constable’s vision for restorative justice, however it does raise concerns. The emphasis is not on raising awareness of restorative approaches across the community and empowering victims to know the range of options that are available for them. There is perhaps a concern that police as facilitators are being coerced using restorative approaches: this does not fit well with restorative values and raises questions as to whether the key values of restorative justice have been comprehended and absorbed by the force.

## **Summary**

This chapter has detailed the initial introduction of restorative justice to the police force that occurred following a change in leadership in 2008/9. The events leading up to the implementation of both ‘restorative justice’ and ‘restorative approaches’ highlight the importance of leadership, and that it was the influence of leadership, not changes to wider government policies, which led to initial and subsequent implementation of restorative justice. The arrival of a new executive member was the driving force for implementation, despite the availability for restorative justice to be introduced in a policing context no meaningful restorative activity appears to have taken place before then. However, the grand vision for a ‘restorative police force’ and a ‘restorative county’ were not matched in practice and the use of restorative justice began to decline.

The process of implementation including the issue of officer training was considered: this is a crucial area, the neglect of which can lead to reform failure (Skogan, 2008) therefore the types of training offered, the number of officers trained both for the initial implementation and the re-launch were discussed. This background information is not only significant for future chapters concerning the barriers and opportunities to successful implementation but it

is also crucial in assessing police officer understandings of restorative justice: it is necessary to consider the scope and reach of previous training in order to accurately assess how police officers understandings are formed and why gaps in their knowledge might occur.

The chapter also explored the use of restorative justice across the police force, this is useful as it showed that restorative justice was being used after the initial implementation and that it was still being used in some areas up to, and including, the time of the re-launch. It also considered the impact of certain events, including a case referred to the IPCC, which may have had a far-reaching impact on officer's feelings towards using restorative justice, particularly for serious offences.

This chapter aimed to make clear the different terms of 'restorative justice' and 'restorative approaches' that will be used throughout the thesis and explore whether these terms denote the evolution of practice. The chapter considered whether it was merely a rebranding exercise, with restorative justice repackaged specifically for the re-implementation or whether it was indeed indicative of a culture shift across the organisation. In order to explore this change further this chapter used McLeod's (2003) framework in order to consider organisational shift from a bureaucratic towards a post-bureaucratic or restorative force. The chapter concludes that whilst the change is in name from restorative justice to restorative approaches is a tried-and-tested *modus operandi* for police leaders producing a 'new', repackaged, product when attempting to implement reform (Skogan, 2008) the wording on policy documents and other text and guidance used in force hints towards a cultural shift occurring. This will be explored further in the empirical chapters but it is a central element to address from the outset: understanding the culture of the force being studied is a crucial element, as Clamp notes "the culture of an institution or group may ... impact on the extent to which new initiatives are supported" (2011:23). The culture and the cultural shifts that have occurred over the time period from the first implementation of restorative justice therefore need to be acknowledged. The evolution of the force and its change from restorative justice to restorative approaches will be a cross-cutting theme throughout the following three empirical chapters. Each chapter is based around one of the three research questions; the following chapter will explore police understandings of restorative justice, Chapter Eight discusses the constraints and barriers to implementing restorative justice and the final empirical chapter considers the opportunities for success.

## Chapter Seven: Police Understandings of Restorative Justice

*Researcher: "What do you think is the biggest obstacle in implementing restorative justice?"*

*Interviewee: "People. In the sense that they need to understand"*

### **Introduction**

One of the key elements to successful restorative justice policy implementation within any police force is for officers to understand the basic principles of the concept (Abramson, 2003, Alarid and Montemayor, 2012) and that a 'common understanding' should be shared throughout the organisation (Paterson and Clamp 2012:601). This chapter addresses research question one, examining how restorative justice is understood across a police force. It is vital to unpack these understandings prior to considering how policy is implemented in order to determine what type of restorative justice practices and processes are in place and if they are commonly understood across all aspects of the organisation.

This chapter will consider how police understandings of restorative justice compare to the academic definitions as outlined in Chapter Two. It will also explore organisational cognizance (how restorative justice is formally presented by the force in policy documents), and individual conversance (how restorative justice is informally described by officers and staff) before considering the differences held by police officers in different ranks and roles to see if a 'common understanding' of restorative justice exists. Some of the barriers created by the apparent lack of 'common understanding' will be explored later in Chapter Eight.

The key components of restorative justice were used as a conceptual framework, therefore the role of the key stakeholders: victims, offenders and communities (Zehr and Mika, 2003) are explored alongside officers' narratives of the restorative process, and restorative outcomes. This includes the need for victim and offender interaction, the need for the interaction to lead to an apology, familiarity with regards to mutually agreed resolution and restorativeness and how police perceive their facilitation role. Some of these elements are mentioned more often than others as participants described their individual understandings; there were no prompts regarding these components during the qualitative research.

Omissions can indicate a lack of importance placed on a particular component of restorative justice. The analysis will therefore comment on what is not said, as well as what is.

The impact of police culture on cognizance is potent as it is the subtle differences between ranks and roles that can lead to a disparity between the philosophical, theory-driven, understandings of top command and the practical understandings held by frontline officers. The chapter therefore provides an overview of how these different conversances are created

and provides a 'continuum of understanding' across police ranks. This chapter also notes the changes in the way in which restorative justice is expressed and suggests that comprehensions of restorative justice have evolved over time; from initial ideas that were presented when it was first introduced in 2008/9 to the more nuanced terms occurring as part of the 2012/3 re-launch. The evolution of understanding is explored in order to assess if it is indicative of a culture shift across the force.

## **Police understandings of restorative justice**

### **The process**

The following section considers police understandings of the process of restorative justice. This section explores two issues in detail: how police officers view victim and offender interaction, and also how they see their role as the facilitator in the conference process.

#### ***Victim and offender interaction***

Some form of dialogue or interaction (either face-to-face or by way of shuttle mediation) between a victim and offender is a crucial component for a practice to be considered restorative (Hoyle, 2010). It is recognised that a practice may involve other restorative aims, but the dialogical process is critical (Hoyle, 2010).

There was little discussion across the focus groups in relation to victim and offender interaction. There was acknowledgement that a conference provided the opportunity for the victim to get answers for any questions they might have, however, the only substantial discussion to take place was in relation to the victim being given the opportunity to *meet* the offender. The officers in the conversation below focused exclusively on the victim being able to 'see' the offender; the process was not particularly about the opportunity to 'speak', or to engage in dialogue. It was expressed that if the victim got to see the offender then this would help them to overcome any fear they might have after the event: perhaps see that they were smaller and less terrifying in real life than the image they have constructed in their mind.

*FG1P6: Sometimes they do [want to see them] though because when they meet them they think 7 stone flippin' waste of space it's pathetic*

*FG1P5: Yeah*

*FG1P6: and they actually think these horrible massive blokes who've have been in their houses, when they meet them they feel sorry for them*

*FG1P4: They're still horrible afterwards, they're just 7 stone!*

*FG1P6: They said afterwards yeah I'm really pleased I've met them, looked them in the eye ... and they like look pathetic and I'm really pleased*

*FG1P4: But isn't that the wrong way round though because shouldn't the aim of restorative justice be for the offender to think 'I feel really sorry for the victim' you know.*

*FG1P3: Not for the victim just to want see who has burgled their house*

*FG1P6: Erm ideally yeah*

*FG1P4: And then feel sorry for the offender because they look a bit skinny ...*

What is interesting about this discussion is that whilst one officer points out the importance of 'seeing' the offender, their colleague questions the relevance of this sort of encounter. The offender's appearance should not be the focus. This is often one of the examples used in training when describing the impact of restorative encounters: that the victim sees that the offender is not a 'monster'. The focus on 'seeing' matters as the dialogical element is overlooked. It had been subsumed by the anecdotal stories used during training sessions.

There is no guidance issued in relation to the victim and offender interaction. Force guidance (2010) provided information in relation to the practicalities of the process only: stating the checks that are needed, the forms to be signed, and updates to be made afterwards. In relation to victim and offender interaction the comment is brief, guiding officers to: "Conduct RD as applicable, in line with training. In the case of juvenile, make all efforts to get parents or guardians involved, and at the very least ensure parents are aware." [Force Procedures, 2010: 3.1.1.d].

Umbreit and Armour (2011:76-7) describe four points to victim and offender interaction: to name what happened, identify its impact, arrive at a common understanding, and to reach an agreement on how the harm caused may be repaired. This section will focus on this fourth point in more detail; the idea of a mutually agreed resolution, particularly in relation to the need for the victim and offender to engage in a discussion and for there to be a mutual agreement. In the Force Procedures document (2010) whilst the victim "has a say" in the process, the role of the offender is not given much consideration. This is despite acknowledgement during interviews with top command, and some middle management of the importance the victim and offender mutually agreeing on how best to repair the harm caused by the offence. Force policy documents suggest that the police remain the key stakeholder in the resolution process in relation to restorative justice outcomes. In policy documents both from 2010 and the new policy document in 2014 it states that the officer is responsible for the outcomes and that they must meet SMART criteria (Specific, Measurable, Achievable, Relevant, and Timely).

The process was therefore not necessarily about the victim and offender interacting, engaging in a dialogue and reaching mutual agreement on how the offender can repair the

harm caused to the victim. If the victim and offender decide on an outcome that they [both] consider fair and reasonable the police officer has a responsibility to ensure that this agreed outcome meets the force's SMART objectives. Of further importance the 2010 policy document states that a police officer can add to a mutually agreed resolution outside a meeting: "If other actions appear necessary but have not been suggested in the restorative meeting, for example drug or other local referrals, these may still be applied outside the meeting as with any police intervention." [Force Procedures, 2010: 3.10.7). Consequently, further outcomes may be imposed on the offender outside of the meeting; these measures are not part of the victim offender dialogue and have no victim input nor do they have to be agreed upon or accepted by the offender.

It does state, "skilled questioning by well-trained facilitators can help the participants to consider all options and render most outcomes restorative" [Force Procedures document 2010]. This does suggest the dynamics of the conference are not necessarily a dialogue between a victim and an offender. With no explicit statement in relation to the role of victim and offender as neither key stakeholders nor the importance of meaningful dialogue between them, there is the underlying suggestion that it is the facilitator's role to provide the victim with a preconceived list of 'options'. It is the facilitator's responsibility to ensure that these options meet force objectives. It is therefore difficult to imagine the victim and offender having high levels of involvement in relation to resolutions in the restorative process outlined in force policy.

Moving forward in the new 2014 policy document directly address issues in relation to mutually agreed resolution and there is no longer any reference to the police officer applying other actions outside the meeting. There is recognition that "the outcomes agreed with the offender are personal commitments, and are not legally enforceable" [Restorative Approaches Procedures, 2014]. Although failure by an offender to comply with the outcomes may mean that prosecution takes place, the force procedure clearly states that "Contact should be made with the victim after the RA resolution, to ensure completion of outcomes or where applicable discuss non-compliance and the options available" [Restorative Approaches Procedures, 2014]. This new policy is therefore more victim-centred; communication takes place with the victim and they are empowered to discuss with the police officer other available options in the event of non-compliance. Problems do still exist in relation to officers potentially being able to influence the initial agreement. Overall the new policy shows recognition of the need for victim and offender interaction, with as little police involvement as possible: "All those with a stake in the process must communicate as directly as possible" [Restorative Approaches Procedures, 2014:7.1].

The final finding in relation to police officers' understanding of victim and offender interaction relates to the impact of cultural barriers on how policy is perceived and interpreted: many police officers saw themselves as the gatekeepers to victim and offender interaction. This informal view of their gatekeeping role, the way that officers discussed whether they would consider offering restorative justice to victims (which will be discussed in more detail in Chapter Eight) impacts on their understanding of the process. Of particular importance is that for many officers, particularly those working in crime and justice, they believe their role is fundamentally that of protecting the victim. The need to offer a victim the opportunity to take part in a restorative justice process, to 'give the victim a choice', was offset by what they saw as a more central need to protect the victim. For one officer working in crime and justice command, the reluctance to offer restorative justice to all victims occurred not because the officer was opposed to the idea of restorative justice or that they would rather see offenders prosecuted but rather the recognition that many of the victims the officer sees are vulnerable: they may be elderly, have mental health issues, or are perhaps traumatised by the crime.

*It's not because we're police officers that we just think we've got to prosecute everybody, but there are some offences that that [restorative justice] is just totally not acceptable as a way of dealing with it, no matter how you look at it. [FG1P3]*

There was much questioning in the focus groups as to whether it was appropriate to use restorative justice if the officers perceive the victim as vulnerable. This was again often presented as a way of protecting the victim: "we also have a duty to protect that victim as well, I mean sometimes we have to decide: no, it's not suitable." [FG1P3]. It is important to consider how this culture barrier impacts on police conversance. It is clear that their cognizance of restorative justice is influenced by how they perceive their role. Therefore victim and offender interaction may be accepted for some low-level crimes and potentially more serious offences also. However, frontline officers are still likely to act as gatekeepers to the interaction if they perceive either the victim or the offender as being 'unsuitable'.

This section has established that the importance of dialogue during victim and offender interaction was not particularly recognised by officers: training anecdotes had shifted the attention away from 'speaking' to 'seeing'. There was some confusion in relation to the restorative process and policy. Force documents have changed over time: initial policies were offender-focused, whereas, new policies demonstrate a more victim-focused outlook. There are still potential areas of resistance due to cultural barriers which saw some officers, particularly those in typical 'crime-fighting' roles, conceiving their role to be one of 'gatekeeper' to victim and offender interaction. It is important to note that not all officers



feel this way and many appreciate the opportunity that restorative justice gives them to consider the offence from the victim's point of view as the following section will discuss.

### ***Police as facilitators***

The role of police officers as facilitators has been widely evaluated (McCold, 1998a, Young, 2001, Hoyle, Young *et al.*, 2002, O'Mahony and Doak, 2004), the purpose of this section is to consider how officers understand their role within a restorative interaction. The following section will briefly discuss the research findings in relation to the organisation's expectations of the police officer's role. It will then explore how police officers describe their interactions and their reflections on their suitability for the role.

The type of interaction the victim and offender may experience often depends on the way in which it is facilitated. Guidance set out in the Force's 2010 Procedure document suggests the role of the police officer is to 'conduct' the process. The term chosen is markedly different to the idea of the police officer as a 'facilitator' of the interaction, and suggests that the police officer is in control. Overall the procedure process makes no reference to the input of the victim and offender, the only communication referred to is with regards to the police officer explaining the process to the victim. Earlier in this chapter the research suggested that officers saw themselves as gatekeepers to interaction, making decisions as to whether the victim and/or the offender would benefit from the process before offering it as an option. However, once an officer has decided to go down the restorative justice route the majority of officers in the focus group sessions appear to comprehend restorative justice interaction as being a victim-centred approach:

*We're not saying that we know best: you are the victim; you know best, what do you want? We'll take it on board, we'll do everything that we can, but what do you want? What do you want to do? [FG1P6].*

Police officers recognised the benefits of facilitating conferences, for them it enabled them to see a new perspective: "As cops we get focused on the incident and getting the detection and getting the cough [admission of guilt] and the victim just gets lost a little bit but to me it really brought the victim back into it [FG1P6]". In general the officers who embraced restorative practices and had facilitated Level 2 conferences tended to show more awareness of victim's needs than those who had not: there is a recognition that they had become used to discussions with the offender: "You do forget the victim don't you, because it's not the victim that you sit with [FG1P5]".

When describing their experiences of facilitating restorative justice conferences, discussion in relation to the offender was markedly different. Coercive language strongly featured, with the use of words and phrases like 'told', 'get', 'dragged' contradicting the basic principles that restorative justice should be inclusive and non-coercive (Dignan, 2005). Some officers

made little distinction between a restorative justice process and giving the offender a ‘telling off’. Restorative justice was seen as a longer and more bureaucratic process in comparison: “That’s the only reason that we don’t use RJ so much really it’s just the time when you could just go round to the kid and tell them off in front of their parents” [FG2P5]. This research is not an evaluation of practices but it does highlight that not all officers may have moved away from their perception of traditional cautions where they would give an offender a ‘bollocking’ (Hoyle *et al*, 2002). It is important to note that these terms were used in a setting amongst peers, and the language used is therefore not necessarily indicative of the levels of coercion. This research did not explore whether officers used coercion in relation to offenders attending restorative processes, it is therefore not possible to establish if officers ‘lectured’ the offender or influenced the final agreement, as officers in other restorative policing situations have been found to do (McCold and Wachtel, 1998).

Moving forwards the new Restorative Approaches Procedures show a significant improvement in terms of the guidance for police facilitation. Firstly the term ‘facilitation’ is used instead of the aforementioned ‘conduct’:

The victim and offender affected by a crime or any other type of harm actively participate together in the resolution of matters arising from the crime or harm. This may, where appropriate, involve other individuals or community members and should generally be facilitated by a trained individual. [2014:2.1]

Furthermore it provides a list of principles that officers should apply at all stages of the process, which include:

“Ensure a safe environment to build trust and confidence; treat people fairly without discrimination, with openness and transparency; be respectful to all participants; be non-judgmental– facilitators maintain a neutral and non-judgmental position; participants are responsible for the outcome. All those who have a stake in an incident of harm are responsible for determining the outcome of the process; participants should be properly informed throughout being given sufficient, open and honest information; there should be no undue pressure on participants. No person shall be forced or unduly pressured into the process; all those with a stake in the process must communicate as directly as possible; facilitator provides an opportunity for restorative practice. All those who have a stake in the process have an opportunity to exercise their rights.” [2004:7.1]

There is a significant change in terminology in the guidance document as the force moves towards the new restorative approach. Further research is required to see if the guidance impacts on how officers understand and facilitate victim and offender interaction. One of the

important features of restorative policing is for police officers to consider how they think about crime and the need of the victim (McCold and Wachtel, 1998). The narratives from officers who have facilitated restorative justice conferences suggest there is some recognition in relation to the benefits of a paradigm shift towards a victim-centred way of dealing with a crime. However, it is uncertain whether it has had any impact on the way officers respond to crime; more research is need to consider if the coercive terminology or behaviour features in practice. Having considered police understandings of the restorative process this chapter will now consider how the three key stakeholders: victims, offenders, and community are described and discussed.

### **Key stakeholders**

For many frontline workers, particularly officers in neighbourhood commands who were used to problem-solving and working with POP frameworks, they were often somewhat confused as to who the restorative justice process was supposed to benefit: was it for the victim, and therefore did they make a decision based on their wishes? Or was it for the offender: were they to take a ‘leap of faith’ to potentially help them desist from offending? Both the training they had received and force policies on restorative justice tried to encourage its use: selling restorative justice as both a tool for empowering victims and for reducing reoffending. This left neighbourhood officers unsure as to which ‘problem’ they were supposed to be solving. It also meant that officers only viewed restorative justice in terms of its potential benefits; they had to be convinced that the process would aid the victim or the offender in order to offer it to the victim or the offender. If the benefits were not obvious it would not be an option, as this officer describes: “if you feel like the victim is not going to get anything out of it, or like the offender is not going to learn then you just won’t use it” [FG1P8].

Those who have previously conducted conferences appreciate their value. Indeed many officers across the focus groups were pleased by the outcomes of the conferences they had facilitated and were proud of the service that they had provided to victims and offenders and the local community. Describing the use of restorative justice for a group of young people who had caused damage to a local park:

*It really works, so I would say that [doing the restorative justice conference] was more effective, because those kids definitely didn’t have the means to pay £2,000, I know for a fact. It would have been a complete waste of time and it would have criminalised them and I’m sure that they learned something from the outcome of that. [FG1P5]*

The officer narrating the event clearly recognised the harm caused to both the victim and the wider community and the benefits of using a restorative approach for the offenders too. This

section will explore both the organisation's understanding in relation to the key stakeholders as set out in policy documents and how victims, offenders, and the community are described by individual officers.

### ***Victims***

Despite there being formal recognition that restorative justice should be “victim-focused” the emphasis in the 2010 Force Procedure guidelines is predominantly on the offender, particularly in relation to their suitability for taking part in restorative justice. Whilst it is necessary for the offender to admit guilt, an offender's suitability for restorative justice also included other terms defined by the force, including the type of offence committed. Although it could be used for a wide range of crimes it was mostly aimed at “low-level crime and antisocial behaviour”. A list of excluded offences where it could not be used was provided in the old policy document including aggravated burglary, assault - GBH/wounding with intent, criminal damage - with intent to endanger life, murder / manslaughter, rape and most traffic offences (Force Procedures, 2010). The 2010 policy also states they are unlikely to be considered eligible if they have ‘received’ a restorative disposal in the last 12 months, although this is down to the officer's discretion. In reality these criteria meant that rather than the victim being the starting point in the process the victim is only approached and offered a form of restorative justice if their offender has met certain conditions imposed by the force.

As previously mentioned police are the gatekeepers to victim and offender interactions and the reliance on officer discretion means that for many different reasons restorative justice is not routinely offered to all. Across the four focus groups there were similar discussions in relation to what circumstances they would offer restorative justice: “I would decide upon the state of the victim – if they were really upset and unhappy then I would go down the RJ route” (FG4P6). It is essential to highlight this issue: officers do not describe discussing it with victims or offenders and finding out what their wishes are, the majority of officers who took part in the focus groups and who practiced restorative justice appeared to make a decision based on their own feelings in relation to whether they thought the victim or the offender would be willing to take part and crucially whether they would potentially benefit from the experience.

It is also relevant to note the sharp contrast between frontline officers' understandings of the victim's role and those of top command. Top command describes the victim's involvement in decision-making in relation to all aspects of the process; including if they wish to be given a restorative justice option is as central:

*Victims are told what they think, and they are kept out of the decision making: so you can't possibly have the victim's opinion about what might happen in this case!*

*We've got to have a completely homogenised state view of 'what it feels like to be a victim'. Well, how do you know what it feels like to be a rape victim? It's entirely appropriate that somebody should be able to describe that. So I think ... the victim's absolutely central to it all and drives this. [IV1]*

There is a clear gap between officers on the ground who see their role as gatekeepers: either denying the option of restorative justice to victims in order to 'protect' them, or offering it to victims and offenders if the officer *feels* they will benefit from the experience in some way. These are the perceptions of officers across all four of the focus groups, despite clear direction from top command that restorative justice is suitable and appropriate for all cases. One reason why this misunderstanding occurred in frontline officers was perhaps due to training, especially as officers in crime and justice command were less likely to have received any training or information on restorative justice, as discussed in Chapter Six. It is therefore unsurprising that officers concluded that restorative justice was not relevant to their role. Secondly, the 'formal' understandings of restorative justice written in force policy could have added to the confusion due to the emphasis placed on the offender's suitability (rather than the victim's needs).

The new Restorative Approach (RA) Procedures are less restrictive and make clear that it should be the victim and offender's choice to participate: "other than on safety grounds, participation in RA is the participant's choice not that of the police or the investigator." [2004:2.3]. There are still restrictions in place for domestic violence: positive action must be taken in the first instance, however, after the event it is available if the victim wishes to explore the option, it must undergo a risk assessment, further background checks and permission must be given from the force lead for restorative approaches. It is important to note that this force has adopted the vision that restorative justice should be available for all victims as this is unusual, particularly in relation to domestic abuse. A restorative approach is also explicitly available for other serious offences, including hate incidents and hate crimes. The Restorative Approaches Procedures document acknowledges the following:

Victims are generally the most harmed by an offence but have the least say in how that harm is restored when matters are progressed through traditional court disposal methods.

RA seeks to give victims a choice by giving victims a voice and can run alongside a criminal justice disposal as a means to ensure victim satisfaction and empowerment.

In such cases RA can deliver both a positive experience and a positive outcome for both victims and offenders including serious crimes such as robbery, burglary and violent crime. [2004:3.3].

Whilst this goes some way to addressing the issues raised in relation to victims being given the choice to participate, the research findings raise questions as to whether officers,

particularly those in crime and justice command, are able to make the cultural changes necessary to appreciate the benefits restorative justice may bring to some victims of serious crimes. The new policy offers the caveat for ‘safety grounds’: many of the frontline officers who took part in the focus groups, particularly those from crime and justice command, saw restorative justice as not being a safe option for victims. To this end, further research to investigate how these attitudes have changed since receiving training may prove insightful.

### ***Offenders***

This section will discuss how the force policies on the offender’s role in the process have changed over time. It will also explore the officers’ understanding of restorative justice as a diversionary measure and how the offender’s attitude impacts on officers’ discretion to criminalise, or not. One of the key aspects of restorative interaction is that the victim and the offender must willingly engage in restorative justice and be prepared to interact with each other. Whilst the 2010 force policy states that the victim must give consent to take part in a restorative justice disposal or conference, the need for the offender to also consent is not emphasised. Policy guidelines outline the procedure that police officers should follow when conducting a restorative disposal. The guidelines state that officers need to: establish facts; establish suspects’ eligibility; explain and seek consent to engage in the process from the *victim* and then conduct restorative disposal as applicable. Although the document later offers the proviso that ‘both’ victim and offender should agree and understand the process, the procedure process fails to make explicit reference towards the need to ensure the offender’s consent to engage.

The second issue with the 2010 policy is the emphasis on the offender’s eligibility, this perhaps explains the frequent discussions across the focus groups as peers attempted to reach a mutually agreed conclusion in terms of which offenders would be eligible. It also explains how some frontline officers were ‘put off’ from doing restorative justice due to the practical aspects of it:

*the criteria was quite small that we were allowed to do it in the first place, which I think is the reason why I didn’t do any for a long long time, and like I say the fact that I hardly used it for crime. [FG2P4]*

There was a distinctive change in the new 2014 guidance documents: the conditions and exemptions for restorative justice to take place have been removed the only limitation is that the offender must admit guilt. The document stresses that in general the use of restorative justice should be discretionary, there are no set exclusions. Ultimately the officer is provided with the overriding motto of the force, when making a decision they should ‘do the right thing’:

*If an offender has previous convictions or previous RA a degree of common sense and discretion is needed. Having previous convictions or having an RA within 12 months does not disqualify an individual from another RA should it be appropriate and sensible in the circumstances to utilise this disposal type. This must be closely supervised. In all cases we DO THE RIGHT THING. [Restorative Approaches Procedures, 2014:3.2.3, original emphasis]*

During many of the focus group sessions discussion frequently focused on issues of police discretion and upon whose needs the decision to offer restorative justice should be based. Again there was a thirst amongst frontline officers for practical knowledge in terms of who to offer restorative justice to, and whether to offer it to the victim first or the offender. The issue as to whether the offender would learn from it was discussed in detail in one focus group; a few examples had been given where restorative justice had been used for young people who were described by the officer as “decent students” [FG1P6]. This officer later reflected on their use of restorative justice in this situation: “I still have a problem though, because erm I’m thinking if they’d been snotty nosed bad attitude kids I would have just been ‘right let’s have you in court” [FG1P6]. After much discussion in relation to how officers decided whether to offer restorative justice based on the attitude of the offender one member of the group put forward the idea as to the victim being at the centre of their decision-making process: “to be honest, when I’ve done it in the past I’ve normally only considered it on the basis of the victim and how they come across to me, and if they come across as quite a realistic person” [FG1P8].

This discussion raises many concerns, not least in terms of fairness, the use of police discretion and the lack of understanding in relation to basic restorative principles displayed. It also raises an interesting issue: here frontline police officers thinking about how they respond to crime and how they interact with victims and offenders. Officers are reflecting on their own potential prejudices and they are starting to give consideration to the victim. This is one of the fundamental aims of restorative policing, to bring about a paradigm shift in the way that police think about and respond to crime. However, their approach still appears to fall short of prioritising the victim’s needs.

This section has shown that organisational understandings are evolving and the non-coercive principles of restorative justice are now embedded in policy documents. Whilst there appears to be small improvements in relation to understandings of victims and offenders as key stakeholders in the process there is still one stakeholder that was notably absent from the discussion: the following section will proceed to discuss the role of community in more detail.

### *Community*

Despite 'community' being a key stakeholder in restorative justice, information about their role was lacking throughout this study; there was little mention during interviews and focus group discussion, policy guidance, or in the new training package. At the time of the research the force was setting up two pilot Neighbourhood Resolution Panels 'to deal with low level crime, ASB and PACT priority incidents' (Giving Victims a Voice internal briefing document, January 2013). These seemed separate to the main re-launch in that their development did not fall within the remit of the restorative justice steering group, although updates in relation to their progress were occasionally given at steering group meetings. Overall, community involvement did not form a key part of the implementation strategy: there was no consultation with wider community groups in relation to the new restorative approach. Communication to the public did form part of the communication strategy in the form of press releases and use of social media, however, the subgroup was predominantly focused on internal communication including designing new 'Giving the Victim a Voice' posters, creating information messages on force systems and articles in the force internal magazine.

In terms of the Restorative Approaches Procedures document 'community' is referred to five times: the first three terms appear at the start of the document defining what a restorative approach is. It outlines that a restorative approach: is "to enhance community cohesion" [2014:1]; a process that "may involve community members" [2014:2.2]; and that "RA enables everybody involved in an incident to play a part in repairing any harm caused and reducing the impact the offence has on the victim and the community" [2014:2.2]. There is no further mention in relation to the role of the community in the restorative approach process. It then states that reparation could include: "reparative work for a community cause selected by the victim." [2014:9.1] and finally that "most RAs will not require a police presence and efforts should be made to make arrangements with parents or the community where appropriate." [2014:9.5]. Therefore whilst community and community cohesion appears to be a key aim of the restorative justice approach there has been little attempt to actively engage with the community or incorporate the community into the process. Attempts to incorporate the community are at a top-down level, there seems to be little bottom up desire from communities for restorative reform.

Community involvement and a customer-focus are seen as key elements of a post-bureaucratic organisation (McLeod, 2003). Whilst the re-launch of restorative approaches attempts to be victim-focused neither victims nor the wider community were involved at any stage of the process. The community is not on the force's agenda in terms of implementing restorative justice and nor is restorative justice on the community's agenda. This is



highlighted by the PCC, talking about his pre-election campaign; he recalls not being asked by the public in relation to restorative justice at any stage of the campaign process:

*Researcher: and did you have much interest about restorative justice [in the run up to the PCC election]*

*PCC: None at all, none at all. It's certainly not high on people's agenda.*

The role of the community is considered an essential component of restorative policing: for restorative policing to be successful attention needs to be paid to community needs and the community should be actively involved in order for systemic reform to take place (Bazemore and Griffiths, 2003, Alarid and Montemeyer, 2012, Hines and Bazemore, 2003).

## **The outcomes**

### ***Apology***

Across the force as a whole, there appears to be an overemphasis in relation to the importance of the offender apologising to the victim. The lack of understanding with regards to the importance of interaction manifests into an emphasis on the interaction being about 'making' the offender apologise, rather than the victim and offender engaging in successful interaction (of which an apology is a by-product). It is significant to note that when discussing understandings of restorative justice for officers the importance of victim and offender interaction and facilitated dialogue was subsumed by the emphasis placed on the offender saying sorry: "all we want to do is get the offender to say sorry to the victim, which is generally what the victim wants [FG3P4]". There was a consensus amongst some officers that restorative justice was something they had always done, it was described as:

*[Going] back to the old school, so to speak, like Dixon of Dock Green, when the cops are called out and you're taken round with your mum or whoever was affected and you apologise and that would be the end of it [FG3P4].*

This demonstrated simplification as to what restorative justice principles are and a lack of understanding and engagement regarding the wider philosophy of restorative justice. It was often referred to as a simple process where you get the victim and the offender together – the main purpose being for the offender to say sorry: "you'd have a meeting between the suspect and the shop manager and there's like an apology [FG4P9]"

When asked if an apology was necessary for restorative justice, some officers believed it could occur without an official apology as such: "sometimes you don't need an apology it's just to understand why it's happened or that it won't happen again" (FG3P4). There are clearly different understandings across the force in this respect. One officer recounted how they had carried out a "successful" RJ where the victim and the offender had been satisfied with the interaction but the offender had not explicitly apologised. The officer described how the case came back to him because an apology was not recorded on the notes: "You

would send off your pocket note entry and then it came back and ‘this person hasn’t said sorry. What? You’ve got like 4, 5, 6, pages but you’ve sent it back because this person hasn’t said sorry [FG3P6]”. Officers were therefore clearly frustrated and expressed experiences where supervisors did not understand what restorative justice was, or were not supportive of the process. This demonstrates a lack of clear understanding in relation to restorative values and principles across the force.

### ***Repairing harm/Restoration***

Crime is not simply the breaking of laws; restorative justice recognises that crime creates harm and conflict. Restorative justice is a process that enables the offender to recognise the harm that they have created and to make attempts to repair that harm. Despite this widespread acceptance, at least in academia, of restorative justice being inextricably linked to notions of repairing harm, the term is not used in early formal understandings. The 2010 Force Procedures document lacks a clear reference to the role of restorative justice for repairing harm: the term “repairing harm” is not used; the emphasis is instead placed on the notion of ‘restoration’. Restorative justice is described as providing ‘tangible restoration’ (although what this involves is not made clear). In marked contrast to this the new 2014 policy embraces the idea of ‘harm’, the term is used frequently throughout the policy document and there is an emphasis on repairing harm instead of the previous use of the term ‘restore’: “[a restorative approach] enables everybody involved in an incident to play a part in repairing any harm caused and reducing the impact the offence has on the victim and the community.” [Restorative Approaches Procedures, 2014:2.2]

Part of the re-launch and the rebranding of restorative justice to a new restorative approach involved a move away from the terms ‘victim’ and ‘offender’ to those of ‘harmed’ and ‘harmer’. This appears to be a conscious and deliberate decision taken by those implementing the new policy. There is a clear recognition in relation to the idea of ‘harm’ caused by a crime or incident and that a key part of restorative justice is not only to recognise harm but to help the victim and offender to identify ways in which the offender can repair the harm that they have caused. The new policy clearly states that the role of a restorative approach is to ‘effectively resolve issues’. This idea of ‘effective resolution’ to those involved is a stark contrast to the old policy document; this is not about providing a partial restoration, the repair of harm is a clear goal.

Discussions throughout this chapter have highlighted that the key values and principles of restorative justice have not been fully understood; either by the organisation (particularly in relation to early policy procedures) or by frontline officers. Whilst the new policy demonstrates positive signs of a movement towards embracing restorative values there still needs to be an element of caution. Particularly as policy is driven in a top down manner the

community as a key stakeholder is still absent from the process. This chapter has considered police understandings of restorative justice specifically in relation to the process, the key stakeholders, and the outcomes. It will now look towards the broader definitions; exploring how restorative justice is defined by the police force and how officers across the organisation understand it.

### **Towards a definition**

Contrary to academic debate in relation to what is, and what is not, restorative justice there is no suggestion that police practitioners (of all ranks and roles across the police force) are aware of the on-going arguments, or that they recognise any problems in relation to its definition. Marshall's (1996) definition tended to be used in initial ACPO guidance, in police documents and in training packages and it appears to have been accepted without question. Whilst much academic literature has been devoted to assessing the different processes and outcomes of various restorative practices, and the level of restorativeness achieved through different forms of victim and offender interaction, there is little acknowledgement of these differences throughout the police force. With the lack of a clear definition this section will explore understandings in relation to specific areas of restorative justice and also focus on any misunderstandings. In particular there is little differentiation between restorative justice as a concept or outcome and a police-led restorative disposal as a specific process. Two common misunderstandings have been identified for discussion in this section: firstly the lack of differentiation between Level 1 (restorative disposal) and Level 2 (restorative conferencing) experienced by frontline workers; and secondly whether restorative justice is a standalone disposal or whether it should be used in conjunction with another criminal justice process. This second issue saw a divide forming between officer's understandings based on their rank (and therefore their orientation towards practical, performance, or philosophical issues as discussed in Chapter Four).

The first misunderstanding (or mixed message) is the main way in which restorative justice is understood and defined by frontline officers, and some middle managers, by its categories of 'Level 1', 'Level 2' and 'Level 3' (as outlined in Chapter Four). Officers made very little distinction between Level 1 (restorative disposal) and Level 2 (conferencing) in terms of the outcomes or effectiveness; the only difference recognised is the process and the time it takes to organise. This misunderstanding is ingrained in policy and training documents. The terms 'restorative justice' and 'restorative disposal' are used interchangeably. In the first policy procedure document from February 2010, the front cover of this document states it as a guidance document on 'restorative justice' and its first aim is given below:

*This document provides guidance to practitioners on the application of Restorative Justice (RJ) as a summary measure to conclude low-level crime and antisocial behaviour. This method of disposal will allow inappropriate behaviour to be challenged in a structured manner, offering a victim focused service, a degree of restoration to victims, and increasing overall confidence in the police and our partners. [Force Procedures 2010: 1.1]*

This quote shows the application of ‘restorative justice’ as specifically relating to low-level crime and anti-social behaviour. The following policy aim 1.2 then immediately discusses restorative disposals stating that the force “will employ a discretionary use of a Restorative Disposal’s (RD) in addition to existing methods of disposal when dealing with offences”. The terms restorative justice and restorative disposal are used interchangeably throughout the document. Unlike Thames Valley which distinguished between ‘restorative conferencing’ where the victim is present or ‘restorative cautioning’ where no victim is present (Hoyle, Young *et al.*, 2002) the force in this case study made no such distinction. In particular it is not clear what the term ‘restorative justice’ refers to.

Differentiation between types of process is later based on the ‘Levels’ of restorative justice. In the 2010 ‘restorative justice’ guidance document the distinction between the different levels was simply in terms of the time period with which it is offered: Level 1 is described as ‘instant’ whereas Level 2 involves a degree of planning to set up a conference:

*Restorative Disposals can be used in one of two ways; - Level 1, which is an on the spot action, or Level 2, through the use of conferencing and mediation. Whilst on the spot action is sometimes desirable, the process can be delayed, for example, to accommodate participants, find a suitable location, or trained officer. [Force Procedures 2010: 3.4.2]*

Both are scripted processes following the same question set, however, there is a degree of preparation to the Level 2 conference. Family and supporters for the victim and the offender should be given the option to attend, and (importantly in terms of fair process) the victim and the offender both have time to consider the option (Hoyle, Young *et al.*, 2002). Chapter Three discussed national concerns about the infrequency that police officers use Level 2 restorative conferencing; officers have a clear preference towards the use of Level 1 instant disposals (Meadows, Albertson *et al.*, 2012) primarily due to the time involved, as will be discussed further in Chapter Eight.

The time-saving element needs to be understood in the context of these research findings: the lack of clarification between ‘restorative justice’ and ‘restorative disposal’ and the generic use of the terms have led to the belief that the benefits of Level 1 instant disposal are comparable to Level 2 conferencing. It is perhaps not the case the officers are sacrificing ‘restorative values’ in order to save time, rather there is a fundamental lack of understanding

in relation to what restorative values are. This has been compounded by the mixed messages they have received in relation to restorative justice and restorative disposals, the implication being that 'Level 1' and 'Level 2' conferencing are the same thing and they are both equally referred to as 'restorative justice'.

The second issue of confusion is in relation to 'restorative disposals' (Or Level 1) being viewed as a standalone outcome and 'restorative justice' referring to a combination of restorative conferencing with a further criminal justice outcome. Understandings in relation to this issue differs across ranks: it was identified during the interviews with some senior managers that whilst frontline workers saw restorative justice as a quick Level 1 disposal instead of a criminal justice outcome, senior officers were concerned that serious offences were not being 'crimed'. Therefore, for senior management their understanding was that whereas restorative disposals are a standalone measure, 'restorative justice' involved a further criminal justice sanction; again there is no reflection on the specific values, processes or outcomes of restorative justice and how these differ between restorative disposals and restorative conferencing:

*I felt that RJ got off on the wrong step in this force, and the wrong message had gone out because especially at Level one RJ was being looked at as RD, restorative disposal rather than restorative justice and it should only be in exceptional cases where RJ stands alone when it is a criminal matter being investigated. [IV6]*

Frontline officers were aware of this situation too. Whilst some understood that a restorative conference could be run alongside a criminal investigation (although there were practical problems in relation to how to do this as will be discussed in Chapter Eight), the majority of officers viewed restorative justice as something that was done 'instead of' a criminal investigation. The following conversation highlights the issue when one officer describes using it in both situations, yet the officer's colleagues could not see why you would 'do both' due to the extra work involved:

*FGIP6: See at the moment there's still a lot of confusion over whether you run it alongside the criminal investigation or whether it totally replaces the criminal investigation. I mean I've done both I don't mind I'll do both.*

*FGIP5: I got the impression that it's instead of isn't it, otherwise there's no point in doing it as far as we're concerned.*

*FGIP3: Yeah, you end up doing it twice.*

*FGIP5: Yeah it's like not going on leave because you love the job! [Laughter] You deal with the restorative justice instead of dealing with it as a crime otherwise it's not going to save you time, it's going to make you time.*

The impact of this was that many were opting not to use restorative justice disposals at all. The same issue came up across different focus groups; the notion of using restorative justice

alongside a criminal investigation was very much tied to the idea of confusion, of receiving mixed messages, and ultimately that frontline officers were being asked to do more work when they could not see any reward.

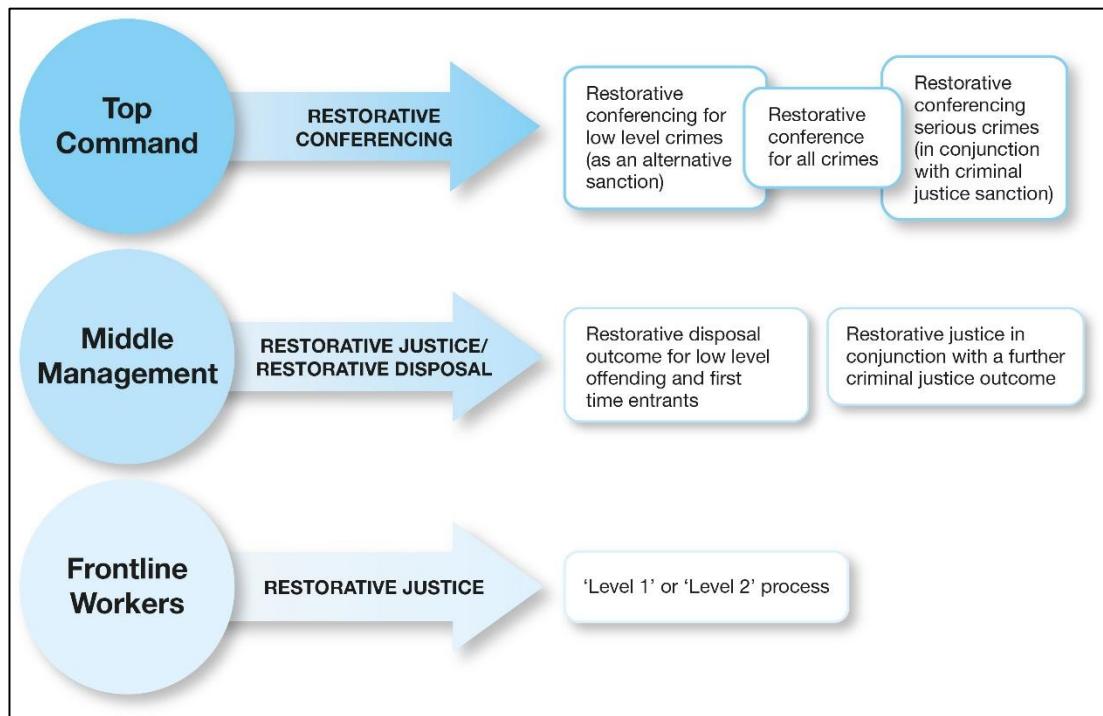
*They seem to change the goalposts with the erm crimes as well because people were using it every now and then to get rid of low level crime and the detections weren't coming in. And then you hear the bosses saying 'oh no we never told you that at all, you have to deal with them properly first, and then you do restorative justice as well'. Why is a cop gonna [do that] then? You've done the job, it's finished! Why is a cop gonna do the RJ on top of that, it's just not gonna happen. [FG2P4]*

What is interesting is that because 'restorative justice' is 'sold' to officers on the premise that it will save them time and that it is a 'restorative disposal', then their understanding of a disposal in its own right is inextricably linked to this. The value of conducting a restorative justice conference for the benefit of the victim is lost. Top command's vision on the issue of standalone restorative outcomes versus a combination of restorative justice and criminal justice outcomes in a very different way to middle managers or frontline workers. Top command had a clear model of a 'twin-track' approach, whereby Level 2 restorative conferencing was to be used for low-level offences, including running it alongside criminal outcomes and Level 3 conferencing was to be used for serious offences:

*We've got a twin track approach, deep end shallow end, the shallow end is all about mediation, neighbour disputes, minor issues [describes a criminal damage case where restorative justice was successfully used] ... that's the shallow end. At the deep end [describes burglary offence where restorative justice was successfully used] you know and we've got all these prolific offenders and ... looking at the most serious offences that's probably been where our major successes have been. [IV1]*

As will be discussed in the next section, there are clear differences in the way different ranks are orientated towards different understandings of restorative justice, and this is illustrated in Figure 9. Frontline workers view restorative justice both as 'Level 1' or 'Level 2' and for most officers it equated to the same thing: a standalone disposal. For practical reasons it was considered ridiculous to add other elements and do twice the work. Middle managers conceived of restorative justice as a standalone disposal only for low-level crime or first time offenders. Restorative justice could still be used for other offences and scenarios due to the potential benefits it has, particularly in relation to reoffending. Middle managers still expected a criminal justice outcome: restorative justice is an addition to this. Whereas top command had a more nuanced and fluid understanding that restorative justice could be used for all crimes. However, for top command, restorative justice meant restorative conferencing *not* Level 1 instant disposal.

*Figure 7: Diverging definitions of restorative justice*



The Chief Constable saw the introduction of instant restorative disposals as problematic; for him it took the focus away from more restorative activity such as conferencing and this is where confusion occurred.

This reinforces the findings above: training and policy guidance for frontline workers was unclear and restorative justice and restorative disposal were seen as interchangeable. The lack of focus on outcomes and a general lack of understanding in relation to the levels of restorativeness meant that restorative justice is seen purely in terms of the process and important elements are therefore lost. Whilst top command and middle managers showed greater understanding in relation to the problems of restorative disposals there is a clear difference in understanding across the force: when restorative justice was first implemented top command and senior managers anticipated Level 2 and Level 3 restorative conferencing being used for a range of crimes, often in conjunction with another criminal justice outcome. However a misunderstanding developed through the mixed messages in force policy, guidance and training sessions leaving the vast majority of frontline officers understanding 'restorative justice' as a Level 1 instant disposal. This section has started to outline some differences in understanding that exist across the force. The different understandings that exist across rank and role will now be explored in further detail.

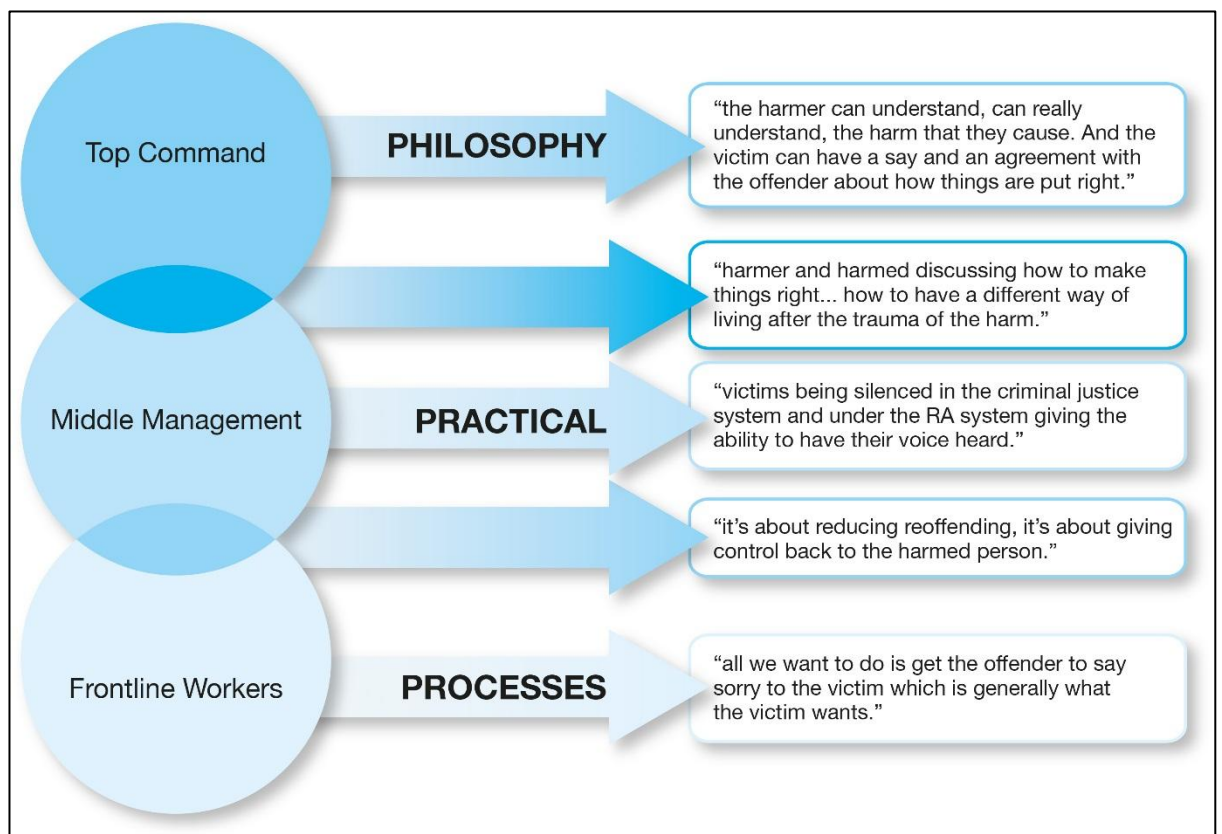
## **Differences in understanding across rank and role**

Chapter Four outlines three sub-cultures amongst police officers: top command, middle management and frontline workers, each orientated towards a different aspect of policy (Farkas and Manning, 1997). Broadly speaking, the higher the rank of officer, the more nuanced their understanding of restorative justice tends to be. Despite some frontline officers receiving numerous training packages and various in-house training (and some being clearly passionate about restorative justice) their discussions during focus groups were focused more on practical issues. Higher ranking officers, despite receiving little or no training in restorative justice, often showed more nuanced understanding. The research findings reflected the orientations put forward by Farkas and Manning's model, i.e. frontline workers were orientated towards concrete knowledge: the practice of carrying out restorative justice and what is expected of them. Whilst many officers found it difficult to fully embrace restorative justice, for frontline staff this was less about the philosophy and more about the practical realities of doing it. For them the main barrier to doing restorative justice was the lack of understanding specifically in relation to the practicalities of conducting restorative conferences and the recording of restorative justice outcomes on force systems which was described by some frontline officers as being a "completely impractical process" [FG3P6].

Frontline workers therefore are less interested in the philosophical or theoretical elements of restorative justice, in terms of understanding they want to be given enough practical information to allow them to 'do' it. In terms of officers' understandings, there was some knowledge about the benefits of restorative justice both for the victim and the offender. Amongst frontline officers there was some understanding that restorative justice was about "putting something right" [FG3P1] and for the person who has offended to be held accountable for their actions. However, for many frontline workers the importance of reparation and the offender repairing the harm that they have caused did not come through in the dialogue. Restorative justice was seen as a quick, simple process whereby the offender said sorry to the victim. There is knowledge around the offender being held to account for their actions but the aim seems to be more in terms of aiding the offender; it is expressed as a means of reducing reoffending, not repairing the harm caused to the victim. This is a typical quote from a frontline officer where they clearly believe this is what restorative justice is, describing it as "arranging for two people to come here, or wherever, and sit down. To then start talking about and mediating between about how you're going to prevent further offending" [FG2P2]. The officer describes flexibility in where the conference will take place, the descriptor 'people' is used rather than an offender label, and they refer to talking or mediation yet the underlying aim or principle outcome of the process appears to be preventing further reoffending.



Middle managers provide the link between top command and frontline workers; it is argued that understanding by this group is perhaps key as it is they who interpret policies and directives (Farkas and Manning, 1997). This particular sub-culture is most orientated towards the implementation process; how to translate their understandings of the philosophy of restorative justice into something they believe frontline officers will understand, what to implement, and what practices to prioritise when faced with competing and often conflicting demands. Middle managers showed more understanding and were very much orientated towards the victim being ‘given a voice’, offenders being held accountable for their actions, and repairing the harm: “[restorative justice is] useful for closure for victims of crime I think, as well as having the opportunity for the harmer to think about their offending” [IV4]. For middle management we see the interpretation of theory: the tagline used in the re-launch branding of restorative justice was frequently given; restorative justice is about “giving victims a voice”. There was also understanding that the offender should be involved in the agreement “it’s not a chain gang, erm it’s not a method with which to enforce punishments on people” [IV3]. Middle managers were aware of this need for frontline officers to understand and to be given the practical knowledge regarding how to do it: ‘for a cop to do it on the street it’s got to be non-bureaucratic, it’s got to be not too time consuming, but it’s got to add quality to their day, and it’s got to be simple’ [IV9].



*Figure 8: A continuum of restorative justice understanding across police officer rank*

Top command understood restorative justice processes to be about the wider issues of repairing harm: “restorative justice isn't where ... punishments are imposed on offenders and harmers, rather than harmers saying ‘no, this is what I need to do to put it right’” [IV1]. Top command was most likely to understand the philosophy of, and theoretical debates surrounding, restorative justice. As might be expected, this segment had the deepest and most nuanced understanding. Within this focus group dialogue focused on broader theoretical concepts and was centred on putting right the harm. There was also a greater awareness not only as to what restorative justice is but to what it is not: ‘restorative justice isn't where punishments are imposed on offenders and harmers, rather than harmers saying ‘no, this is what I need to do to put it right’ [IV1]. The vision and role of leadership is crucial for restorative policing (Bazemore and Griffiths, 2003). McLeod argues, “leadership in the agency must clearly understand what restorative justice is, what commitment to change is and what the change process requires” (2003:370-1). However, as discussed one of the key elements to a police force’s successful policy implementation is for there to be a ‘common understanding’ throughout the ranks (Paterson and Clamp 2012:601). Figure 10 highlights how subtle differences in understanding between ranks impacts on frontline officers’ understandings of restorative justice.

Generally, whilst middle managers expressed an understanding of the needs of frontline officers in relation to implementing policy, the level of detail needed was not always provided. There is a clear gap between the level of information officers were previously accustomed to under their old ways of working in a bureaucratic force and restorative justice processes which rely on police officer discretion and therefore lack the level of detailed information and prescribed processes. Whilst restorative justice is promoted as a return to police discretion both in force training sessions and across literature (see Clamp and Paterson, 2013) it is clear that many officers struggled with the lack of practical information; there is a central conflict between the philosophy, the proposed change to enable officers to use discretion, and the bureaucratic regime officers were used to working in (McLeod, 2003:372). This created a barrier to implementation that will be discussed further in Chapter Eight.

Despite clear understandings from top command police understandings of restorative justice vary through the police force ranks. Whilst the differences are quite subtle from one rank to the next there is a ‘Chinese whisper’ effect and so the understandings of frontline officers are radically different to those of top command. Having established that different police cultures are orientated towards different aspects of restorative justice policy, Figure 10 highlights the lack of ‘common understanding’ between ranks and subcultures. Whilst each subcultural group has subtle differences in understanding one can see how understandings of

restorative justice mutate and key elements in relation to the philosophy or the key themes of restorative justice are lost as it becomes a process of getting a victim and offender together so that an apology can occur. This chapter will now discuss some of these gaps in understanding in more detail.

### **Gaps in understanding**

Focus groups identified clear gaps in knowledge and understanding, particularly in relation to the practical aspects of ‘doing’ restorative justice. Whilst the majority of frontline officers after receiving training had accepted the concept of restorative justice and were able to see the benefits of using it, for many the practical barriers were described as too difficult a hurdle to overcome:

*...the first ten minutes of the lecture you thought “this is the way forward” then after they explained the mechanics of it you thought I never want to touch one of them in my career if I can help it, because it’s actually harder [FG1P2]*

The practical aspects in relation to how to ‘do’ restorative justice drove the discussion across all focus groups with police officers. Their understanding was firmly based around the practical realities of conducting a restorative conference, i.e. the decision-making process, for whom to offer restorative justice, how to organise a conference, how much time it takes, how to ensure the process was fair both to victims and the person who has offended and, perhaps most importantly for the officers, how they were expected to record the outcome (and in turn if their actions would result in approval or disapproval by their supervisors). Much of the discussion around restorative justice was confused and the focus group frequently became an information-sharing discussion amongst peers; with officers seeking clarification as to when and how restorative justice could, and should, be carried out. Appendix D highlights in more detail the specific practical issues raised by frontline officers during the four focus groups.

The same practical issues were also reflected elsewhere. Following on from these focus groups it was recognised by the steering group that officers had numerous questions and were perhaps coming to the new training session with preconceived ideas due to their lack of understanding in relation to restorative processes. Analysis of the ‘pros’ and ‘cons’ officers gave at the start of each training session detailed many more cons being put forward (290 in total) compared to pros (59). Over three quarters of the cons recorded on these flip boards related to practical elements of ‘doing’ restorative justice. The other more philosophical issues raised were questions around its effectiveness and the victim being re-victimised or traumatised by the process: a theme that will be considered further in Chapter Eight in relation to officers’ perceptions of their role as gatekeepers and protectors of victims.

The practical cons as shown in Table 8 were much more numerous and indicated a lack of understanding in relation to various aspects including pre-conference, during the conference and post-conference. For example: arranging a suitable time and venue; dealing with potential conflict during the conference; and ensuring any mutually agreed reparation is carried out.

**Table 8: Police officer ‘cons’ to using restorative justice**

<b>Type of ‘con’</b>	<b>Description</b>	<b>No. times written</b>
Philosophy	Soft option	35
	Victim orientated	18
	Does it work?	13
	<b>TOTAL</b>	<b>66</b>
Practical	Lack of understanding/Lack of skills/ Mixed messages/Poor implementation	32
	Detections/Outcomes	26
	Time consuming	20
	Victim/Offender involvement	20
	Cultural change/Supervision did not support its use	18
	Too difficult/Too complicated/Extra work	17
	Lack of community buy-in/Lack of support from other agencies	17
	Inappropriate offence/Inappropriate Victim/Inappropriate offender	15
	Legal issues	13
	Cuffing/Potential for abuse	12
	Other	12
	Managing expectations (victim/offender)/ Potential for conflict in conference/Bad conference experience	11
	Update/Record on systems/Bureaucratic	10
	<b>TOTAL</b>	<b>224</b>
	<b>Grand Total</b>	<b>290</b>

Post conference worries, including the outcomes surrounding the conference, were based around how reparation would be enforced, and how they would go about handling any money.

For the majority there was a general lack of understanding: where does a restorative approach fit in the criminal justice system, what if it goes wrong, how is it recorded, what offences should it be used for, what if there are multiple offenders, how would it be used in road traffic accidents if the harmed/harmer was less well defined?

### **Changes in understanding over time**

Throughout this chapter police force procedure documents from 2010 and 2014 have been compared which highlight how police understandings of restorative justice have changed over time. The biggest change is the way the force changed its terminology from ‘restorative justice’ to ‘restorative approaches’ and the use of the term ‘harmer’ to replace ‘offender’, and ‘harmed’ to replace ‘victim’. However, there is a concern that this is perhaps a simple use of ‘buzzwords’ which gives the appearance of moving from a hierarchical, reactive model towards a more progressive, less-bureaucratic model of policing (Hunter and Barker, 1993). For example the new restorative approach slogan ‘Giving victims a choice: Giving victims a voice’ offers exactly the simplistic appeal that Hunter and Barker are critical of, and suffers from the same weakness: it does not address *how* to do it (1993:157).

The force procedure documents do suggest a significant change and there is further awareness of restorative values in the new policy document [2014] however, there are still areas such as the role of the community as a key stakeholder that need to be developed before the new approaches can be truly restorative. Significant work has since been done in relation to the setting up and use of Neighbourhood Panels since this research was conducted which may have had a positive effect in this regard. This research did not explore officer’s cognizance of restorative justice after the new training and this is recognised as an area for further research.

### **Summary**

There are three themes that emerge as police understandings of restorative justice are explored: the first finding relates to the differences in organisational and individual definitions and understandings of restorative justice. It is apparent that original policy guidance was unclear and that some elements of restorative justice have been misconstrued or imagined. This raises issues in relation to the translation of policy into practice. Furthermore there were clear differences between academic and police understandings of restorative justice. Significant differences were found in relation to the key values of restorative justice: police officers, particularly frontline workers placed very little emphasis

on the importance of victim and offender interaction, and there was also little emphasis on the need for mutual agreement in relation to restorative outcomes. The role of restoration, which has been put forward by Doolin (2007) as the dominant value of restorative justice, was mostly absent from discussion, with the emphasis instead placed on 'resolution'. This in itself is regarded as a performance measure, with the number of successful 'resolutions' being counted and applauded without a real or tangible definition in relation to what success or resolution entails. Indeed for the majority of officers there was little attention paid to the difference between a Level 1 'instant' restorative justice disposal and a 'Level 2 'restorative justice conference' despite clear demarcation across academic literature in relation to the level of restorativeness offered by the two processes. Further differences were observed in relation to the key stakeholders: frontline officers spent a lot of time discussing the role of victims and offenders; however, the role of the community was completely absent from discussion.

Secondly we start to see clear differences in officer's understandings in relation to their rank and their role within the force. This chapter presented a 'continuum of understanding' to highlight the small disparities between ranks and how this led to a large difference in understanding between the top command and the frontline officers. Officers' understandings in relation to their role also tended to be influenced by cultural issues in relation to their functionary role with differences emerging in relation to officers' roles as 'peace keeper' or 'crime fighter'; those in more traditional 'crime fighting' roles had the least knowledge in relation to restorative justice and generally construed it as irrelevant to their position.

The third finding indicates that a shift in understanding has occurred over time: understandings of the police role in a restorative encounter have evolved and definitions have changed, however, whilst this has occurred in policy, changes on the ground take longer to appear.

## **Chapter Eight: Barriers to Implementation**

### **Introduction**

This chapter focuses on the barriers to implementation experienced by the police force when it first implemented restorative justice. Four overarching barriers were identified: cultural barriers, practical barriers, policy barriers and external barriers.

The chapter begins by exploring the cultural barriers to implementation and resistance strategies of frontline workers and middle management. It will firstly explore the way in which police 'crime fighting' culture, particularly the emphasis on performance measurement, impedes on officer's acceptance of restorative justice reforms; the outcomes of which are difficult to measure and do not fit into pre-existing performance rates (Skogan, 2008). It will then consider whether there is a barrier to restorative justice in relation to its basic principles, or whether resistance is due to deeper cynicism towards the launch of 'another' initiative or reform. The section further considers whether other force initiatives limit the use of restorative justice to being another 'victim care', 'problem-solving', 'community policing' or 'reducing reoffending' tool. Whilst it is useful to compare the implementation of restorative policing to COP and/or POP due to similarities in the nature of reform there is the danger that as restorative justice becomes interwoven with other initiatives some of its key values and principles may be subsumed.

The second section chapter considers the practicalities of 'doing' restorative justice and explores the real-life experiences of officers on the ground. The section clearly highlights the antipodal needs of frontline officers, who want concrete information and knowledge as well as firm guidance, and top command who are trying to engender a culture shift and encourage officers to use their discretion. One of the key findings from this research is that for many officers it is not the idea of restorative justice that is the barrier; it is the practical difficulty of doing it alongside the criminal justice system. Therefore practical barriers of competing demands for time, problems recording restorative justice on force information systems, and ensuring that any reparation agreed is carried out, are highlighted.

The third section investigates both the real and the imagined policy barriers faced by frontline officers carrying out restorative justice. Exploring the micro-level, it analyses the constraints (and perceived constraints) officers describe as barriers to doing restorative justice. This includes the questions officers have in relation to what crimes restorative justice is suitable, to whom it should be offered and how restorative justice should be used for crimes. The findings indicate that officers receive different, often competing, information from their training, the force policy and from their managers.

In the final section, this chapter looks outward to consider the external constraints inhibiting the force's use of restorative justice, considering the political agenda and impact of national policy, regional issues in relation to partnership working and public perception of police use of restorative justice.

### **Cultural barriers**

This section examines the cultural barriers to policy implementation that resulted from the implementation of new restorative processes that emphasises 'peace keeping' as opposed to traditional 'crime fighting' police roles. It specifically analyses the resistance by officers to these new ways of working, particularly by those officers working from crime and justice command, comprising of the criminal investigation department (CID). The section will then explore this further by considering the barriers presented by the implementation of restorative justice as a programme or process rather than a philosophy designed to encompass all aspects of policing.

### **Crime fighting vs. peacekeeping**

The values of restorative justice are fundamentally different from traditional police practices and thinking (Alarid and Montemayor, 2012). Research findings reflected the struggle acclimatising to this new way of thinking experienced by some officers, particularly those in specialised units that have more of a 'crime-fighting' role within the organisation. Across all focus groups detective constables, working from crime and justice command and therefore dealing with the most serious crimes, had a very different view on restorative justice compared to their police constable colleagues in neighbourhood or response commands. Many detectives did not believe that restorative justice had anything to do with their role. For some there was a reluctance to take part in the research as it was seen as irrelevant and a waste of their time. One Detective Constable who took part in the research left the focus group after taking part in just under 15 minutes of discussion as they believed they had nothing to contribute:

*I'm going to leave, because I don't think I can contribute any more to this discussion, basically I don't deal with it, I've had no input on it, I've only heard about it from a beat officer who's given me a little bit of insight into it. I've had insight today of how complicated it is, but I'm probably more in learning process and I'm not going to use it very often, okay. [FG3P1]*

This theme, that restorative justice was irrelevant for officers in crime and justice command, was common across all four focus groups. For many, as far as they were aware, they could not use it in their role due to the type of work that they were involved in: "Purely for the nature of the work that we deal with, you can't use a restorative justice for like a serious assault or like a dwelling burglary can you?" [FG4P8]. This was a shared understanding across the command; the reason many detective constables were not using restorative justice



was due to the nature of the crimes they worked on, as the following quote illustrates: “I’ve never used it myself because I’ve been in roles where I was told you couldn’t use it: child abuse, domestic violence” [FG4P4]. These attitudes from frontline officers in crime and justice command are in direct opposition to the Chief Constable’s vision that restorative justice should be used for serious offences. It was also despite the fact that some high profile serious offence cases (including rape and sexual assault) that had taken place across the force. However, when officers in crime and justice command were asked specifically if they had previously received any training or information from the organisation most officers in had not, for them their command was about detections: “From our command, obviously in crime and justice, I think to be honest with you, our sort of main focus is detected crime” [FG4P5]. Whilst the vision was for restorative justice to be used across the organisation it was not put into practice with the first implementation neglecting to include crime and justice. Despite the occasional use of restorative justice for some serious offences the overall vision was not accepted for use at ‘the deep end’ of criminal justice. Officers across all commands generally saw restorative justice as something only to be used for low-level crimes or incidents, specifically by neighbourhood policing teams and therefore for those in more traditional ‘peace-keeping’ roles.

Having established that restorative justice had not been accepted by crime and justice this section will now explore the reasons why; three barriers emerge from the data: resistance from frontline officers, partial implementation, and a performance culture that only recognises and rewards ‘crime-fighting’ behaviours. Firstly there was clearly some resistance to the idea of using restorative justice for serious offences during the focus group sessions: officers were opposed to its use either due to the type of offence (especially sexual offences) or the perceived ‘vulnerability’ of the victim (for example an elderly victim of a burglary) in cases where these factors were present restorative justice was seen as “not a good idea in any way, shape or form” [FG1P3]. Within one of the focus groups a member of the neighbourhood policing team challenged the idea that restorative justice was only for low-level offending, suggesting that victims of serious crimes, including rape, may want to meet the offender. Here we see the officer in crime and justice command adamantly believes that the victims of serious crimes that she deals with would not want to meet the offender:

*FG1P6: but when the victim is saying to us [the police], ‘I don’t want that [traditional criminal justice route], I want to meet them?’*

*FG1P3: That’s fine, I’m saying for the offences that we deal with I can’t even think of a situation when a victim, even if I asked, I can’t think of somewhere where they’d turn around and say ‘well actually, yeah, I’d be happy with that’ [meeting the offender].*

At the time the research was carried out officers in crime and justice command had not been given any information about restorative justice, they had not received any training and there was no incentive for them to use it:

*To me it [restorative justice] would perhaps be like a low level crime, or a child, or something where the victim does not want to prosecute. It's something else, it's another avenue of dealing with them instead of prosecuting or going to court ...it hasn't been relevant to my role [in crime and justice], I can't think of a situation where I could have maybe used it ... but the crimes and what have you that we deal with it's just never come up; I mean we're dealing with stabbing, or rape or something like that. [FG1P3]*

The second barrier begins to emerge from the research data regarding the partial implementation of restorative justice processes. Despite the Chief Constable's vision that it should be available to all victims of crime this vision was not put into practice and only police officers working in neighbourhood policing teams, and some response officers received any training in relation to restorative justice. Therefore despite the strong vision, the lack of a 'whole force' meant that many officers did not see restorative justice as relevant to their role. Restorative justice was seen to be a particular process, or disposal, for low level crimes and incidents only.

The third barrier identified relates to performance in that the incentive system in place for officers to 'do' restorative justice as a process or to adopt restorative philosophies across all aspects of policing is limited with the main performance and incentives directed towards traditional 'crime-fighting' activity. Despite the vision for restorative justice its use was not linked to performance measures or reward structures: Chief Constable's 'commendations', for example, predominantly focus on 'crime fighting' achievements such as long-term or complicated policing operations for serious offences. The force does operate *WOW! Awards*, part of a national scheme to recognise excellent customer service and also encourages entrants in the *Tilley POP* awards, however, from my personal observations of working in the force culturally these awards are not prized amongst officers in the same way as commendations. At an everyday level individuals, beat teams, localities, and specialist units all work to force performance targets; frontline workers were acutely aware as to what actions are prized by the force and by their direct supervision. There was a very clear divide between how the different commands regard restorative justice. This was based on its impact on their performance, and on the ability to meet the targets set for their command that they were held accountable for. "Good idea, bad idea: it depends what side of the command you're on. If you're on response its good, if you're on CID it's bad for the bosses...because they want detections." [FG2P3]

It was very much recognised by frontline officers that their supervision had a focus on performance rates, particularly in relation to detected crime: “[It] comes down to different people having their own agendas depending on what they’re measured on. The DI isn’t going to want an undetected crime on their hands.” [FG3P4]. Frontline officers therefore have to balance the needs of the victim and the needs of the offender, as well as appeasing their supervision who are putting pressure on them not to use restorative justice:

*FG3P2 The way it stands crimes are getting ... finalised non-sanctioned detections by RJ and that sort of eats into their sort of figures and that’s why they are nit picking and that’s why the finger pointing comes out as such and you’re made to feel, like ‘have I done the right thing?’ because I’m getting told one thing, and I’m getting criticised!*

*FG3P4: damned if you do, damned if you don’t*

All officers felt under pressure in relation to meeting performance targets and ensuring that crimes were not finalised as a non-sanctioned detection. This problem is related to the mixed message that restorative justice is a standalone disposal for low level crime and does not incorporate the vision for restorative justice to be used alongside a criminal justice outcome, as discussed in Chapter Seven. The misunderstanding that restorative justice was only for low-level crimes and incidents and the lack of information in relation to using restorative justice alongside a crime meant that some middle managers were blocking its use:

*FG2P3: (Crime and Justice Officer) Yeah, we’ve all had emails from CID bosses*

*FG2P3 (Neighbourhood Officer): Really?*

*FG2P3: ...in the past, telling us not to use restorative justice when a fixed penalty can be used et cetera et cetera [sic]. And on the other side of the fence you’ve got response gaffers telling us to use it for low level crime or where it’s appropriate.*

Overall therefore officers in more ‘peace-keeping’ roles, such as the neighbourhood policing teams were more likely to acknowledge and appreciate the benefits either for them as a problem-solving tool, something that was could potential save them work in the long run or for providing a more effective alternative than typical criminal justice system processes. However, the prevailing benefit by some neighbourhood officers and particularly by response officers was in relation to the time-saved: it is viewed as a quick, instant way to deal with an offence compared to alternative disposals: “in terms of response [command] we often use it for shoplifting ... for us sometimes it is the easiest option if there’s not many of us on and it’s a lot quicker” [FG4P9]. It is possible that this focus on the time-saving is driven by the prevailing ‘crime fighting’ culture in that it allows officers, particularly response officers, to move on quickly from low-level crimes and incidents thereby making them available to focus on more traditional ‘crime fighting’ incidents: Skogan (2008) argues that police officers prefer ‘to do what they signed up for’, which is typically based on crime fighting and emergency service response. Whether restorative disposals are used to quickly move from low-level crimes to free up times for other police work is an area for further

research. However, the following quote indicates that officers do save their time and energy to put into other ‘jobs’: ones which impact on performance targets and earn them praise and recognition, ones that give them ‘a tick in the box’:

*When it first came out it was going to be a sanctioned detection to a crime if you like, an option instead of putting them through the court process or the youth justice process it was going to be a sanctioned detection. And then when they actually rolled it out found out it was going to be a non-sanctioned detection. Non-sanctioned detection not worth having, just give them some other punishment so we get that stamp, that tick in the box. We’re run alongside RJ, but if I’m going to do one I’m not going to do the other because, as you’ve heard earlier on [at earlier discussion with Superintendent] everyone’s work is high so to have to do something else for a similar output where we don’t have to do it, then what’s the point in doing [restorative justice]? Right we’ll save that little bit of energy and time and put it into another job, if you like ... I think personally it’s because of that I think it’s kind of been forgotten and it’s kind of being shoved backwards. [FG3P6]*

As explored in Chapter Six there was a general assumption that officers did not need specific training in order to carry out restorative justice and there was an emphasis on self-directed learning or learning ‘on the job’. This research demonstrates that for officers in crime and justice command there is little incentive to learn. Neighbourhood or beat officers were used to looking at alternative ways to problem-solve and mediate. However, for crime and justice command it was about the criminal justice process: they had a very clear role to play in gathering evidence, pressing charges, securing convictions. The challenges in engaging crime and justice command were recognised by senior management: “I’ve got some challenges within my own staff about thinking ‘it doesn’t necessarily fit very well in my area of business” IV4. The cultural differences between commands is an important barrier order: in order for restorative policing to be embedded within a police force then restorative principles should encompass all police functions (Bazemore and Griffiths, 2003).

### **Resistance**

This section examines officer’s resistance to the implementation of restorative justice as a programme, or ‘another’ initiative. It explores whether resistance relates to the philosophies of restorative justice or if the strategies employed are typical of resistance to reform more generally. It finds commonalities between the documented resistance strategies police officers exhibit in relation to other reforms such as COP, POP and procedural justice (Skogan, 2008, Toch, 2008, Mazerolle *et al* 2014). Drawing on the links between restorative justice and other attempts at reform this section further explores officer’s placement of restorative justice as ‘another’ or ‘a new’ programme or initiative rather than a new way of thinking about crime and conflict for the force as a whole (Bazemore and Griffiths, 2003).

There have been numerous attempts at police reform over the past twenty five years. For those who have been working in the police service for many years there is often a sense of weariness – that there is nothing ‘new’ about new initiatives: “To be told something we already knew anyway ‘cause I was sitting there thinking ‘Christ, I used to do that years ago!’” [FG2P3]. Restorative justice therefore runs the risk of being seen as just another initiative, another “new thing”. Managers in the steering group believed one of the barriers to successful re-implementation was this cynicism from frontline workers: “I think the barriers are cynicism, that it’s another initiative” [IV2]. For members of the restorative justice implementation steering group one of their key barriers was to address the cynicism and ‘win hearts and minds’, as one middle manager put it: “the biggest hurdle is changing people from ‘it’s a load of bollocks, and it doesn’t work’ to ‘oh, actually it’s good’... it’s a new way of doing things” [IV2].

‘Winning hearts and minds’ was a term used a lot by middle managers. There was a great belief amongst its proponents that when officers saw restorative justice in action that the cynicism would dissipate:

*We’ll always have some cynics; I think the proof will be in the pudding. When they start using it and they start seeing the effect it’s had. And I can say that with some confidence because I’ve had some officers who’ve never used it use it and they said ‘I was a real cynic before, but I’ve used it now and oh God, the difference it’s made. It’s fantastic’, and then they use it all the time now. [IV9]*

Yet despite the urge from management and top command to use restorative justice many frontline officers in the focus groups had developed resistance strategies and were successful in not having used restorative justice over the preceding three years. As Skogan (2008) argues if there are opportunities for resistance, if there is little enforcement or monitoring of its use many officers will choose not to use it: “Yeah, so I’m thinking here, so listen – I’ll just go down the route of the way we’ve always done it. Forget this new one, because no one is really enforcing it!” [FG3P2].

Due to the number of new initiatives, policies and procedures that are constantly being implemented across policing the concept of restorative justice often become confused with other initiatives or engulfed by other projects. There is a very telling part in the last sentence when officers were asked about their definitions of restorative justice:

*Well really it should be something that you should be thinking about while you’re carrying out the investigation. When you know who it is that you’re dealing with and who’s responsible for the crime that you are dealing with: you have to be thinking ‘is this person suitable for restorative justice?’ ‘Cause lots of them aren’t, like some of your victims you know; if your victim is unsuitable, if your victim doesn’t want to do it then it’s not going to happen, because it should really be all about them. Yes, it’s about reducing reoffending, but it’s about total victim care isn’t it? That’s what we’re doing at the minute. [FG4P8]*

It is apparent that restorative justice is viewed as simply another initiative, something that ticks a box – the main components and values are lost: it becomes subsumed with the total victim care initiative. This is not to say that restorative justice should not be incorporated into other initiatives across the force. Often some programmes or attempts at reform pave the way for other initiatives. One needs to be embedded for the other to succeed, as was the case with problem-solving:

*[Restorative justice] was a key to unlock...part of the restorative approaches that we wanted to bring in is about speaking to people, identifying problems and issues to reduce demand and that's basic problem-solving and at that time his [the Chief Constable's] other agenda was to bring in problem-solving, er looking at things that were really effective and either design out crime, deal with offenders, deal with the location in a problem-orientated way and that was RA. Was a way to sort of a key to open that lock and start those discussions, and on the back of that you can start problem-solving. Now on the back of that we are now effectively problem-solving and we're effectively dealing with offenders, we're reducing demand and now is the right time again to launch RA. [IV9]*

The implementation of some reform strategies may help to bring about small cultural changes that will aid new ways of working. However, there will still be resistance by frontline officers and middle management towards change, particularly if it is implemented in a top-down fashion. Restorative justice may well be considered as 'just another initiative' but often there needs to be a range of different initiatives, over a period of time, in order to bring about reform due to the significant cultural change that is needed for a police force to fully embrace restorative justice as a way of dealing with crime and incidents.

### **Practical barriers**

Many of the constraints raised by police officers revolved around practical issues in relation to 'doing' restorative justice. There is a constant conflict due to the way restorative justice has been added on to the pre-existing systems. Whilst there are some cultural issues, particularly differences across commands as discussed above, many officers (particularly those in neighbourhood policing) could see the benefits of restorative justice. However, they were reluctant to do it due to practical barriers with regards to systems and processes. Unlike other disposal measures there is no concrete system, no flow chart, no clearly defined procedure, and no 'tick box'. Instead restorative justice is fluid; it is reliant on human interaction and can be subject to change at any time. It is also reliant on officer discretion that has eroded as forces became more bureaucratic. The majority of officers in the focus groups raised practical concerns around the process, the issue raised were later reiterated in the 'cons' officers raised during the training sessions as discussed in Chapter Seven and outlined in Table 8. Despite many officers having already received training they still had questions around what to do in various scenarios. The discussions in the focus group often involved officers asking their peers' opinions and advice in order to garner ideas on what

they were supposed to do in a given situation. Many practical constraints were raised by police officers: the ‘what ifs’ that they felt were not covered by policy, and the practical issues raised by attempts to add this new, different, disposal method onto pre-existing crime recording systems. It is essential to recognise that police reform is difficult and that “efforts to innovate policing often fall short of expectations” (Skogan, 2008:23). What is unique to policing, compared to other organisational reform, is that policies and procedures are defined externally through national standards but there is potential to adapt policy and procedure locally to suit the community and partnership models of working. This raises many practical barriers; this chapter will consider three of these practical barriers in more detail: namely ‘doing restorative justice in the real world’ and the practicalities of organising restorative conferencing, the recording of restorative justice on pre-existing force systems and how ‘it does not fit in any of the boxes’ and problems related to offender reparation, considering if it is indeed a ‘toothless tiger’ as officers conceive it to be.

### **Doing restorative justice in the real world**

In general the issues raised focused less on the act of facilitation itself: no officers across any of the focus groups suggested that they felt unable to facilitate the meeting between the victim and the offender. It was the practicalities of organising a conference; including the preparation time spent with the victim and the offender and their supporters as well as the aftercare, including ensuring that reparation was completed that was the challenge. This was exacerbated by officers having to do this alongside their daily workload and the lack of support or appreciation for the time that conferences take from their supervision.

Many officers highlighted the lack of a restorative justice team or coordinator who solely deals with restorative justice. Each individual officer is responsible for organising a conference, running a conference and ensuring all reparation is completed. It is the officer’s responsibility to give the victim(s) and the offender(s) the option of restorative justice, provide them with information and negotiate with them both, firstly explaining the process and if they want to take part, then making arrangements for the conference to go ahead at a mutually agreed time and venue. As one officer described: “It takes maybe two or three weeks just to go through the thing: it’s not just quick and simple most of the time, the process you’ve got to go through” [FG4P2]. For many officers the extra work involved in organising and running a conference did not take into account their current workload. As one officer stated:

*Because in the real world once you’ve dealt with that job you’ve got another six jobs to do, so a week down the line you haven’t necessarily forgotten about that first job but you’ve dealt with another boatload of jobs! So yeah, the RJ process in itself, it probably does work. But fitting it into the timescales to our job, I don’t know whether [pause] it doesn’t fit, so you need someone to get a grasp of it. [FG3P4].*

This demonstrates that many officers believe that restorative justice *could* work, the difficulty is the process and the time it takes for them to do it. One officer described a case he was currently working on where he believed restorative justice would be the best outcome and had benefits for the both the victim and the offender. The case has been on-going for the last four months: the problem is that the process relies on both parties being ready and willing to take part at the same time and they can change their mind at any time. The parties in this officer's case changed their mind a few times along the way. Other issues such as illness have got in the way, adding to the delay. The officer clearly wanted the best outcome for all parties but you can sense his frustration at the process:

*I've got one now on the go which I'm trying to RJ and you have to put a lot of work into it to get the people to sit down and sort it out...the IP [injured party] wants to do it and then she doesn't, and then the offender wants to do it and then she doesn't. And then they've been away, they've been in hospital, they've been ill. Things like that. And it's just trying to get everything together and it's a lot of work to get something resolved which would have been easier to deal with through the criminal justice system, you know? I mean I reckon I've probably spent thirty hours at least on this one job which I could have resolved in custody in four or five. [FG3P4]*

This issue of conferencing requiring extra time was raised by top command who appreciated that the preparation time for a conference is one of the biggest practical issues:

*People think that the conference itself is the time and it isn't. It's the preparing for the conference that's the time ... explaining to people, both the offender and the victim and then their respective families. And then, you know, inching them towards it and hoping that there aren't any offences in the meantime...because if it's an ongoing chronic problem that chances are, you know, that something might happen in the meantime. So it's a very fragile thing at that stage until you get to the meeting or the intervention. [IV1]*

However, despite recognition in relation to this issue, in light of recent budget cuts officers have to do "more for less". There have been no processes implemented in order to assist with this issue. The idea that "you can't say you haven't got time to invest in saving time" [IV4] is one that was frequently heard throughout my participant observation. Unfortunately, whilst managers keep pushing for more, officers feel at breaking point. Given the option whether restorative justice will or will not be done, when officers are under pressure it is "easier" not to do it.

This is not to say that senior management and members of the executive are unaware of the pressure on staff. One senior manager described the current situation: "They're overworked to a point of stress and I'm adding something else [restorative justice] to them....I'm not saying that everybody's like that, but a lot of people are; so it's another big ask on top of dwindling resources." (IV6) This divide in what the senior managers expect and what is practical has been picked up on by frontline officers, as the following dialogue shows:



*FG1P2: I think it's good, it's just very complicated.*

*FG1P6: It's not as easy as what we first thought it was.*

*FG1P5: No, it's harder.*

*FG1PU: It's only easy if you're the Chief Constable, isn't it?*

*[Laughter]*

This is a common barrier to reform; Skogan notes that officers fear being given new duties, often involving more work, in addition to their old workload which they are still held responsible for (2008:26). It is clearly vital to address such practical issues in order for officers to feel confident using restorative justice, they need more support in organising conferences and there needs to be more investment in the process. Additionally they need more guidance on how to use it in the scenarios that they face. The criticism is that the training does not take into consideration the complexities of the cases that most officers face and the scenarios given are too simplistic, either a first-time offender committing a low-level offence or the scenarios show Level 3 conferences for impact but leave officers without the skills necessary to carry out Level 2 conferences:

*I can see maybes for serious crimes and the training they do [for newly recruited police constables]... the training that they do with them is somebody who's got donkey's years in prison, and how it's affected the victim and all that type of stuff. Well, to my mind that's too narrow a view for what we do. If you want us to use restorative justice let us use it. Train the new cops on how to use it. But let's use it practically, you know? [FG3P6]*

The training provided clearly needs to spend time focusing on practical issues. There are certain barriers, unique to the police, especially when running restorative justice alongside a criminal investigation. Some of the legal issues do not appear to be considered in sufficient detail: officers across most of the focus groups were worried that restorative justice potentially breaches the Police Crime and Evidence Act 1984 (PACE). PACE is the central legal framework from which all police officers operate, yet it did not appear from previous policy and guidance documents that any clear rules had been given to officers in relation to the use of restorative justice, particularly in relation to its use for crimes as the discussion below demonstrates:

*FG1P2 and also what happens if they do RJ and they don't comply with all of this we then revert back to the court procedure but we could have completely ...our evidence because we've now interfered with witnesses.*

*FG1P6 you've got a full cough outside of PACE yeah.*

*FG1P2 I think that's a great complication if you do it before you've done your full criminal investigation and potentially any court case you need because once they meet the victim you can contaminate so much evidence and then it's gone completely.*

The research took place before the introduction of section 16 of the Crime and Courts Act 2013 which gives courts the power to defer sentencing to post conviction to allow restorative justice to take place. At the time of this research officers were unsure how restorative justice could be run alongside a crime, compliance with 'PACE' was therefore an overarching worry that officers felt in relation to where restorative justice fits within the terms of the legal framework. There were also concerns as to how other elements of the criminal justice system would work with this model, particularly the courts:

*FG3P2: either we do it straight away, instead of the investigation, or we just do our investigation and it's picked up as part of sentencing?*

*FG3P6: cops have got a massive barrier.*

*FG3P2: Otherwise if we do restorative justice while doing the legal thing the person could technically be getting penalised twice – if we still continue the legal process, the person goes to court ... Also we're impinging on some of the decisions the court can make later.*

Officers also felt additional pressure in terms of performance; both in relation to time pressures they faced to gather evidence within PACE timeframes and in relation to the performance outcomes that are initiated once a criminal justice process argument is started.

The following quote demonstrates some of the pressures felt by frontline officers:

*When you look at the demand on the organisation, of sworn and non-sworn officers, everything has to be done then and there. As soon as someone is arrested now it's like the whole world tips the spotlight and you and it's like "right we're needing that, custody file by that time, you've now got forensic time limits on that you've now got restorative justice time limits on that you need a [form] to the offender management unit, where's the file for that, where's that?". I haven't even got him booked into custody, can you just wait two minutes! [laughter] and there's such a massive pressure ... it seems like you are part of an engine that walks into custody and says "there's the prisoner and I'm going to run this investigation" and all of a sudden, all of the other departments, that are support departments and are meant to support you as an officer on the ground, all of a sudden it's the other way around; you have to support them by giving them work, by you doing everything that you need to do at the drop of a hat and sometimes I think that becomes another burden when you look at restorative justice, [it is] another frustration especially when you start looking at the investigation side: statements to take, CCTV, you can fragment them down, it's where does that [restorative justice] sit? [FG2P2]*

As the quote shows there is no particular legislation in place within the force that related to 'restorative justice time limits'. However, that doesn't mean that officers do not *feel* like a time limit pressure is in place. The issues in relation to PACE relate back to the police culture literature in Chapter Four. Officers receive little training but are expected to navigate through large amounts of legislation and related codes for even for the simplest of situations.

Generally there was felt to be a lack of information given specifically in relation to how police were meant to run restorative justice so as not to interfere with a criminal investigation. The practicalities had not been worked out and the specific concerns of officers had not been addressed. It was felt that this is a problem across the organisation for initiatives in general, not just restorative justice; they are rarely consulted nor is the time taken to give meaningful explanations and necessary training. This was a source of frustration for many officers: “We’re an organisation that works on evidence, you know, and quite often you’ll just get told to some something: ‘why?’, ‘Just ‘cause!’” [FG4P3]. This is a common barrier to reform, initiatives rarely have input from frontline workers (Skogan, 2008) and therefore are concerned mostly with conceptual issues and do not pay attention to the practical barriers.

Whilst the majority of officers understood the basic idea around bringing an offender and victim together in a restorative conference they had received little guidance in relation to the ‘real world’ obstacles and barriers that officers had faced. It was therefore much more difficult for an officer to embark on a restorative justice route, particularly when other tried and tested options are available: “we all know how to do a court fine but these things should be simpler, not more difficult” [FG1P2]. As the following sections show, if officers are unable to record their use of restorative justice they are unlikely to use it: for all the range of factors potentially impacting on restorative policing it is easy to overlook a tick box on an IT system, or to consider the practical aspects of mutually agreed reparation and how it will be enforced.

### **It doesn’t fit in any of the boxes**

There was confusion around the recording process for restorative justice, when it was first launched the victim and the offender were to sign the officer’s pocket notebook to agree to take part. This was seen as one of the key issues, according to top command, that ‘got in the way’ of restorative justice. It was believed to make the process more complicated than it needed to be and was eventually disposed of, however, officers on the ground still feel that the process was cumbersome and involved ‘extra paperwork’. One of the issues raised is the difficulty recording restorative justice on the current force intelligence, incident and crime recording system (SLEUTH). The way that restorative justice had been added to the current system did not work. SLEUTH did not have the functionality needed to record the use of restorative justice. The recording and monitoring of restorative justice was therefore completely reliant on officers filling out the correct areas (there is no mandatory question set around restorative justice) and the use of free text boxes. As one officer remarked: “it doesn’t fit in any of the boxes; it doesn’t fit in the SLEUTH box, it doesn’t fit in that.” [FG3P6]. There were further difficulties as the use of free text boxes meant that restorative

justice was difficult to measure as demonstrated by the lack of incident data available for analysis in Chapter Six. It was not possible with the incident recording system to measure the use of restorative justice. The force was due to replace the SLEUTH system and was in the process of designing a completely new system. All resources were being put into the new system; no changes could be made to SLEUTH.

Of the issues in recording restorative justice one of the most crucial barriers for officers is that it did not count as a detected crime. One of the key barriers to restorative justice not being used was its impact on performance rates: despite the Chief Constable saying he is prepared to 'take a hit', the reality is that detection rates are an integral part of the force performance figures and any dip ripples through the chain of command; leaving many of the frontline officers who took part in the focus groups describing how "detection rates are used as a stick to beat us" [FG4P5]. The issue of performance culture as a barrier to successful implementation was discussed at the start of this chapter; however, it forms a central part of how restorative justice is recorded. Whilst frontline officers discussed the barriers created by excess paperwork and the inability to record restorative justice as a sanctioned detection, or to search to see if an offender had already taken part in a restorative conference, senior officers referred to the barrier of recording restorative justice in terms of the inability to extract data. Despite the Chief Constable saying he does not want to count it, the perceived need to use it as a performance measure is deeply entrenched throughout the force.

### **Reparation – a toothless tiger?**

The issue of reparation was raised by many officers specifically in relation to the lack of information available to them if a problem arises post-conference: what should they do if the offender did not complete their reparation? One officer referred to it as a "toothless tiger" [FG3P4] there is no "safety net" for the victim, if the offender did not complete any or all of the agreed reparation. Unlike other out of court disposals such as a conditional caution, the officers were unaware of the policies and procedures they could use to enforce reparation. They saw this as being risky in terms of victim satisfaction, both in terms of how the victim would feel about having taken part in a restorative conference process and the outcomes of which were not enforceable; and in relation to the potential impact it could have on the force. As one officer explained, if reparation was agreed but was not completed the victim is "not going to have any confidence in the police as well, are they?" [FG3P2].

There is confusion as to whether the restorative justice conference itself or the completion of reparation was the end point. Unlike other disposals where there is a standardised way to monitor compliance, ensuring the agreed reparation is made is understandably very difficult

for the officer to do: is the officer expected to contact the victim to ensure the reparation is taking place; what if reparation takes place over a course of months, or years?

There were also concerns in relation to the how the reparation would be completed not only in relation to how who would monitor it but there were serious concerns raised if reparation involved the exchange of money; officers felt that the procedure was not clear and that they were not being protected by the process:

*“It’s quite hard restorative justice; if you have to do it yourself it’s quite difficult. I had to make sure that two lads who’d broke somebody’s window paid...I was like the debt collector! Running around and writing in my book collecting money, which is always a bad thing as you don’t want to have anything to do with property do you? When you’re a cop – if anything is going to get you out of the job it’ll be that.”*  
[FGIP5]

The officer involved clearly did not feel supported and was concerned about having to do work which is seen as being beyond their role (becoming more like a debt-collector than a police officer) especially as the majority of offenders have limited funds and payments would often be made in instalments. There is also the fear that despite trying to do the right thing by the victim and the offender the officer was worried that if he messed up in any way the money aspect would see him out of a job. The fear of handling money was felt by officers. This problem did not come across in all focus groups, although some were disgruntled by the idea: “we are not bailiffs”. Worries around reparation are perhaps dependent of officer’s previous experience facilitating a conference and the conference outcomes that ensue. However, it was something that was mentioned again when officers were asked to give their ‘cons’ to using restorative justice at the start of the new training sessions, as shown in Table 8 (as discussed in Chapter Seven).

The offender not completing the reparation also created issues for officers as they were unsure how to do restorative justice alongside a criminal investigation. The examples given to officers in training had mostly centred on low level offending where a restorative justice would have been carried out instead of another outcome. The issue of mixed messages will be discussed further in the next section.

### **Policy barriers: real and imagined**

Drawing further on some of the findings already outlined in this thesis, this section concentrates specifically on the mixed messages given to officers. Officers had received mixed messages around when restorative justice can be used and for whom it is suitable. There was often much disagreement amongst officers in relation to which crimes it was suitable for: as discussed above there is a barrier in relation to crime and justice not recognising the role restorative justice may play in serious crimes. However, many of the

issues raised by officers as being a barrier to do restorative justice were not specifically outlined in force policy and procedure documents.

Officers had received a range of messages from the different forms of training provided, from their managers and from top command: all of which were often contradictory. This section will first consider what officers want from policy and the challenge faced between encouraging officer's use of discretion versus their desire to be provided with specific information. It will then proceed to consider the mixed messages officers received from force training and the policy guidance documents, specifically in relation to the use of restorative justice for serious offences and the reliance of training examples to include 'Level 3' cases (which are seen as most interesting and impactful but not necessarily relevant to their role). It will also consider low-level offences and the confusion both for frontline workers and middle managers in relation to how restorative justice can be applied in different scenarios. The chapter will conclude by highlighting the importance of having clear messages in both policy and training so that those officers tasked with doing restorative justice understand what they are doing and why.

As discussed in Chapter Seven, one of the key cultural issues in relation to the implementation of restorative justice is the way in which frontline officers and senior management are orientated to different aspects of policy. When questioned about why restorative justice had been unsuccessful the first time round top command pointed to the previous policies being too prescriptive:

*Well, the policy itself the first time around, it was a huge tome – war and peace – of what you could do, what you couldn't do. It was very prescriptive and from the outset we did stick to that quite rigidly and I think that was probably a turn off for a lot of people the first time round [IV5]*

However the frontline officers across all focus groups wanted more clarity around what they can and cannot do. When asked how things could be improved they wanted the current policies to be *more* prescriptive and to give exact information for each difference scenario:

*FG4P8: I think something on the intranet, you know like a portal on the intranet, like where people can go. Like, if there's a certain flow chart for certain scenarios, you know – is this your scenario? Yes. Is this your scenario? No. Just something that gives a bit of clarity as well.*

*FG4P5: yeah*

*FG4P8: so that people know, this is my scenario, this is what I can do, this is what I can't do and these are the exceptions."*

There is clearly an issue around officers adapting to this new way of thinking and the return to discretion: it involves a significant cultural shift from a prescriptive way of working with officers carrying out orders towards officers actively thinking for themselves.

*If you're too prescriptive in the policy, people will be – in this organisation – very prescriptive around how they're going to use it [restorative justice]. It's got to be quite fluid, so I think the current policy is being re-written to take account of that, to allow the lines to be fairly grey and flexible, so that people can start thinking for themselves. That's a bigger challenge for the organisation, allowing people to think for themselves; and people don't want to think for themselves! And recognising that they've got a responsible job and they get paid lots of money ... instead of just taking it as just doing exactly what you're told. I think that's the biggest problem. [IV3]*

However, this shift is not just for frontline officers to make; the direct line-managers and senior management team need to adapt to this new way of working as well. They need to understand the philosophy of restorative policing and need to adapt their performance framework to promote its use:

*“I don't know if there is still the drive or the understanding at some senior management levels ... If your frontline staff are confused about what some of the messages are, there's no doubt some of your senior managers will be as well! [IV4]*

Officers of different ranks from frontline officers to senior management envisioned imaginary barriers (not defined in force policy) in terms of whether a case, particularly a criminal case, was suitable for restorative justice or not. This is potentially due to when it was first implemented and it was confused with a restorative disposal. No information or training was given to officers in terms of the practicalities of running a restorative justice alongside a crime. Since it was launched more and more criteria have been *implied*, although never clearly *applied* or specifically defined as the following discussion highlights:

*FG2P3: I think it was just response command and neighbourhood [that received training]; I don't think they thought that CID would be doing restorative justice*

*FG2P1: it was only for minor crime, wasn't it?*

*[Group agreement] FG2P3: yes*

*FG2P2: I remember thinking I'd be doing a lot of it*

*FG2P3: Well we did, because we all thought 'oh, no paperwork', and, you know, it'd save us a lot of time. But it's just not turning out.*

*FG2P4: But it's only if it fits certain criteria, like I say – if you haven't got a criminal record, and this and that, and the other. Well [most] of the people that you arrest have criminal records...*

*FG2P3: ...both have to be agreeable*

*...FG2P4: ... and so the criteria was quite small that we were allowed to do it in the first place. Which I think is the reason why I didn't do any for a long, long time. And like I say the fact that I've hardly used it for crime; I've only used it for neighbourhood disputes.*

However the 'criteria' that is proving a barrier for officers doing restorative justice, that it is not suitable for an offender with a prior conviction is not set out clearly in policy or

procedure documents. The 2010 procedures document states that it is *unlikely* to be suitable if “the offender has received an RD within the last 12 months; Again, a degree of common sense is needed here; it does not mean someone should be allowed to RD an incident every year.” [2010:3.5.1]. The policy clearly allows room for officers to use their discretion; however, officers have translated it differently and have been left confused by the messages that they are receiving elsewhere.

In particular, there was also a clear disconnect between training sessions which predominately focused on how to do restorative disposals or a conference for an incident or low-level crime and the use of a conference script or pro forma. However, there appears to have been very little focus on the practicalities of running a restorative justice conference alongside a criminal investigation. Further to the mixed messages in policy documents the restorative justice training sessions tended to use the most impactful and easily accessible examples of restorative justice in action: focusing on how restorative justice can be used for serious offences, with the emphasis on conferencing. Peter Woolfe’s video for example<sup>15</sup>, tells the story of how he took part in a restorative justice conference as part of his sentence for aggravated burglary. Whilst stories such as these ‘sell’ the benefits of restorative justice, using an example of a Level 3 conference for Level 1 and Level 2 training is questionable practice. The video may be used to promote the value of restorative justice but there was a distinct lack of information given as to how to use restorative justice for serious offences. Feedback from the training debrief session highlights the tension between using Level 3 conferencing to ‘sell’ restorative justice and the need to provide practical information that frontline officers can relate to. The majority of feedback from those involved in the training implementation praised the use of Level 3 conferencing video that was shown:

*It was the unanimous feeling of the trainers that the training material for day 1 was very dry, very Power Point intensive, repetitive and lacked attendee involvement. Day 1 had no ‘selling point’ to capture the interest of the audience whereas Day 2 benefitted from the role plays and the DVD of the Level 3 conference. This view was supported by anecdotal feedback obtained from attendee’s. [2013: 2.1]*

Trainers suggested that the DVD of the Level 3 conference was a “very effective means of providing the course attendees with an understanding of the practical value and application of R.A” [2013:5.1]. However one officer warned that the “Level 3 conference DVD is seen

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<sup>15</sup> The first scene in the video used for training on Peter Woolfe: “In prison on remand for aggravated burglaries, his case came into the Home Office Restorative Conferencing Crown Court trials and, having pleaded guilty, he met two of his victims in a face-to-face conference prior to sentence. This was the turning point in his life” (restorative solutions <http://www.restorativesolutions.org.uk/page/120/Peter-Woolf.htm> accessed 07/06/2014) - list of excluded offences in the Force Procedures Document February 2010 lists aggravated burglary as an offence for which restorative justice is not appropriate for.



as the ‘panacea’ of restorative approaches training but this is actually a Level 3 R.A. and is perhaps not the best example to use when training officers the Level 1.” [2013:6]

This also highlights a general confusion across frontline officers in relation to what crimes or incidents restorative justice, as a process, could be used ‘for’: some believed that restorative justice was only suitable for low-level crime and incidents (as the initial force guidance document discussed in Chapter 7 suggested) whilst others had received training or guidance stating that restorative justice should be used for anything, including serious offences, as the following quote shows: “it’s all about justifying it as well, because I got told off an Inspector once that RJ can be used for anything as long as it can be justified” [FG4P1]. Frontline officers found themselves entangled in mixed messages: they experienced a lack of clarity, a lack of guidance and a lack of training with regards to restorative justice.

It is imperative that the need for clear guidance for officers is recognised: mixed messages in relating to the actions officers should take when dealing with crime and disorder can have serious consequences. Chapter Six briefly referred to the use of restorative justice on a domestic violence incident by the force shortly after restorative justice was first implemented. Conclusions from the subsequent IPCC investigation reveal that whilst there was no direct correlation between the incident that was resolved by restorative justice and the domestic homicide there were important lessons to be learned from the experience. The investigation highlighted conflict between the different policies in place across the force: “The report concluded that at the time there was a conflict between the force policies on restorative justice and domestic abuse, the first seeking to divert offenders from the criminal justice system, the second promoting positive action against offenders” [DHR001, 2013:25]. It further identified that the force’s “training on restorative justice was confusing and lacked clarity.”[DHR001, 2013:25]. In particular the IPCC was critical of the decision not to take a proactive approach on domestic abuse in the first instance and states that “the lack of clarity during the training of restorative justice may be perceived as a serious flaw” [DHR001, 2013:25].

### **External barriers**

It is useful to recognise the impact that national policies can have in creating or exacerbating some of the cultural and practical barriers previously mentioned. The classification of restorative justice as a non-sanctioned detection was consistently mentioned as a barrier across all four focus groups. Performance culture may or not prevail across individual forces, but the classification of restorative justice outcomes is a national decision. Forces are

measured and compared through these performance ratings. Since the qualitative research took place restorative justice is now classified as a 'positive outcome'; further research would confirm whether this reclassification has had an impact. Whilst it is not just the reclassification that has to change but broader issues in relation to performance culture, the change in national policy did create an opportunity, as will be discussed in Chapter Nine. However, if senior management are still monitoring sanctioned detections at a local level and placing emphasis on performance rates during discussions with frontline workers then the reclassification at a national level is unlikely to have much impact.

The use of restorative justice alongside orthodox criminal justice disposals for more serious crimes is an issue that the force had hoped to address, but again there is an apparent conflict with national messages. So, for example, the force believes restorative justice is potentially suitable for any crime, if appropriate and what the victim wants. However, ACPO guidance is very clear that it should not be used for cases of domestic violence:

*Researcher: why do you think when it was launched a few years ago it wasn't successful?*

*IV4: I think one of the things was undoubtedly about the training and I think, yeah – it was that issue around the clarity about being able to use it in conjunction with the criminal justice outcome. I think that was one of the key messages that conflicted with actually the way we want to do it... in the very early stages [when restorative just was first launched] some of the messages we were getting out were that it would never be suitable in a domestic abuse situation. After some significant discussion and debate, even at a national level ... the ACPO lead for domestic abuse again put the message out to say it would never be suitable for domestic abuse and that conflicted with some of the thoughts, within our organisation.*

With conflicting messages between force and national level policies it is perhaps little wonder that there are mixed messages within the force itself. Whilst a space had been created in national policy to embed restorative justice in policing (Clamp and Paterson, 2013) there were still practical difficulties at a force level. A clear vision from leadership is imperative to reform (Bazemore and Griffiths 2003, McLeod, 2003) yet there are conflicting messages in relation to the use of restorative justice within the force due to the lack of practical guidance for officers.

Further potential barriers occur in relation to other agencies within the criminal justice system where restorative justice may be seen as a threat:

*I'm also aware that certain magistrates don't like it because they see it as a threat ... they have to sit so many times for them to get their salary and this is going to impact on them so that's why they've not liked it in the past. Whether again, they're saying they're up for it but whether they really believe it is a different, we'll have to see [IV2]*

If crime and conflict is seen as the property of magistrates and lawyers (Christie, 1977) then there will be resistance to restorative justice. Whilst magistrates' opinion on restorative policing is outside of the scope of this research, restorative policing creates its own challenge to intervention: the primary goal of policing is to turn offenders over to the criminal justice process for punishment and treatment yet restorative justice involves focus on repairing of harm, with the outcomes decided by the victim, offender, and community through a non-adversarial process (Bazemore and Griffiths, 2003). Bazemore and Griffiths suggest that previous attempts at reform, including POP and COP did not spell out these objectives (2003:337). It is perhaps for this reason that practical barriers remain.

However, for the most part partner agencies were generally supportive of restorative policing; although the concern about agencies doing restorative justice for the 'right' reasons is again raised as a concern. In this case it is to do with restorative justice being pushed as a way to save money and reduce demand across services. One officer describes his experience with partner agencies and his hopes that the wider advantages of doing restorative justice will not be forgotten:

*From the partners that I work with they recognise that we need to try and do it differently: hopefully it reduces demand and we've got pressure on all of our services; hopefully others are looking at the view that we've tried this for thirty, forty years without success and we need to start doing things differently... so I think there's different levels of buy-in. I think I'm getting the message they're very mixed in terms of those two different competing issues. I hope it will become more around the community cohesion rather than finances but I think obviously that's going to play a part. [IV3]*

Money-saving and reducing demand is something that is used as a positive reason to implement restorative justice, although there are worries, as the officer above mentioned, that this is the primary reason for adopting it, rather than the other potential benefits it may bring. When asked if there were any financial constraints involved in the actual implementation of restorative justice the message from the executive was very clear that this is not seen as a barrier: "It's not budgetary; it's all paradigms, it's all inertia and fighting change." [IV1]

However, economic issues could potentially impede on the implementation of restorative justice in the future as the PCC explained:

*If we hit a triple dip recession, which isn't beyond the current situation, and then that leads to you know, alongside sweeping cuts to the benefits system et cetera, et cetera, that leads to a tide of crime and criminality, er it may well be that restorative justice as a means of delivering justice is sort of diminished ... so its impact may be reduced in a slightly different economic situation. Which may take pressure on the force, and indeed myself, to say 'right, we back off from that', and we say harsher measures and we take say, a more courts based approach. But I think really what you have to do is hang your hat on it and say 'I believe', and you believe through*

*thick and thin. And I think historically dealing with people, putting them through the courts doesn't reduce reoffending; actually reoffending rates are very high. So you have to stick by your guns, but you may be faced with an awful lot of public outcry and then, sort of, attacks from the press [PCC]*

This discussion formed part of a hypothetical argument and there was an acknowledgement later in the discussion that the evidence points to a courts-based approach not being effective in terms of reducing reoffending, however, if there was a significant change to the current system, for example due to increasing crime rates then the force could potentially be under pressure from the public and the media to take a more punitive approach.

*Historically dealing with people, putting them through the courts, doesn't reduce reoffending ... so you have to stick by your guns, but you may actually then be faced with an awful lot of public outcry and then, er sort of attacks from the press er but you have to say, so it's the continued implementation that may be under attack, say in certain conditions. [IV10]*

It is therefore apparent that it is not so much the fear of higher crime rates, but rather the prospect of a public outcry against the use of restorative justice that could potentially have the biggest impact on its use across a police force, especially with the change from old police authorities to new roles of police crime commissioners who are publically elected. The public mood therefore plays a determining role in shaping the nature restorative justice policy. At the time of this research, the role of the general public in the implementation of restorative justice was virtually non-existent: "My personal view is that the general public really don't know much about it" [IV7]. There is little demand from the public to implement it or not. In general they are unaware of restorative justice: as discussed their lack of involvement not only threatens the implementation of restorative policing but the integrity of the processes being implemented (Bazemore and Griffiths, 2003).

## **Summary**

This chapter considered some of the cultural, practical and legislative barriers faced when implementing restorative policing. The research explored the cultural resistance by some officers, particularly in crime and justice command who believed restorative justice was for low level crimes and incidents and was irrelevant for those pursuing traditional 'crime-fighting' policing roles. The misconceptions in relation to restorative justice were exacerbated by the force's prevailing performance culture and emphasis on detection rates, the lack of clear vision and policy, the lack of buy-in at a middle management level and the lack of training staff received. This is a fundamentally important as internal resistance to policy reform can lead to its failure (Skogan, 2008). However, the research found that overall it is not restorative principles that are necessarily problematic to a police force, but a more general resistance to police reform. The resistance shown towards restorative justice is typical to frontline and middle management reactions to other new ways of working such as

COP and POP (Skogan, 2008, McLeod 2003, Mazzerole *et al* 2014 and Alarid and Montemeyer 2012).

Whilst there are some specific issues relating to restorative justice these were not necessarily related to the underlying philosophies or values of restorative ways of working but practical issues in relation to doing restorative justice in the criminal justice system. The research highlighted some of the practical barriers, both real and imagined faced by police officers when they conduct restorative justice. Many of the practical barriers to restorative justice implementation result from mixed messages, not perhaps from a lack of clarity in vision from top command but the way in which policies have been translated throughout the organisation and the lack of involvement in the policy implementation by middle managers and frontline officers. The bureaucratic nature of the force at the time restorative justice was first implemented (McLeod, 2003) therefore was a key barrier to its implementation.

Interlinked to these two areas the policy barriers: the research found that due to the mixed messages received, a lack of adequate training and unclear guidance many of the policy barriers were imagined by staff. Building on the findings presented in Chapter Seven, there were clear differences between the orientation of top command, who believed officers should be given more freedom to use their discretion, and frontline officers who wanted more detailed policy guidance.

Considering external barriers the most significant for frontline officers was the recording of restorative justice as a non-sanctioned detection. However, on exploring this further it was clear that this was linked to a wider internal 'performance culture'. It is an area for further research to understand if the change to recording practices in 2013 alleviated this barrier or whether detected crime remains embedded within force rewards and initiatives as 'good police work' (Skogan, 1988).

## **Chapter Nine: Towards Successful Implementation**

### **Introduction**

This chapter explores the key components and opportunities needed for successful restorative justice policy implementation. It considers the organisational changes, focusing on the importance of leadership and vision, and also examines the use of a dedicated 'steering group' to help the organisation in its re-implementation. It will then discuss the cultural changes that occurred across the force from 2008/09 when restorative justice was first implemented up to and including the period of reimplementation in 2012/13. It will assess the impact of national changes in performance measurement and the introduction of 'positive outcomes', thereby removing the previous barrier that restorative justice was a non-sanctioned detection. It will also explore the influence that implementing and embedding problem-solving had on the organisation. The section will proceed to discuss officer's reflections on the organisational culture and the changes that have taken place to enable the re-implementation to occur. In doing so it will consider to what extent a culture shift has taken place across the force. The final section of this chapter will consider the external influences on the organisation and assess how these influences have impacted on the re-implementation of restorative justice and overall attempts to create a 'restorative force'.

### **New leadership and force vision**

This section examines the appointment of new leadership and their vision for restorative justice to be used across the force. The organisational change was previously identified in Chapter Six as a fundamental reason why restorative justice was originally implemented, and subsequently re-implemented. The findings in this section detail officers' understandings of these changes and the perceived impact they had in creating opportunities for implementing restorative justice. During this four year period there were significant organisational changes that affected all ranks and roles across the force. As outlined in Chapter Six there were changes in the executive team, including the appointment of a new Chief Constable, the election of the new Police and Crime Commissioner (PCC), a change in management structure as part of the new force operating model and the impact of austerity measures, including staff redundancies. There was also significant movement in the lower ranks as officers previously trained in restorative justice left, were promoted or redeployed to new positions within the force. This was clearly a very turbulent time and this section shows that whilst the changes to leadership provided an opportunity to implement restorative justice workers across the organisation perceived these opportunities in different ways. For some it created confidence that their organisation was 'ahead of the game', for others it was met with scepticism: previous leaders had also brought 'new' vision and thirdly there was

concern that the implementation of restorative justice was solely linked to the Chief Constable: it was his 'baby' and there were concerns that if he left then the use of restorative justice would not be sustained.

Leadership transition clearly provides a substantial opportunity to bring about change. This was recognised by the executive at the time. The force was re-launching restorative justice and had created the 100 day plan for implementing it (to coincide with the three month period that the Deputy Chief Constable was to be made temporary Chief Constable). When asked why restorative approach was being launched at this time it was clear that it was the change in leadership that was driving this forward:

*Because I'm Chief and it's all about that's the best time to do it, you know when you've had a change in leadership. I can now as Chief, you can say things and insist that things happen and things happen ... there's two things I want to achieve: problem-solving and restorative justice because I know both one reduces demand, improves satisfaction and confidence. And restorative practice aligned with the traditional criminal justice system absolutely nails reducing reoffending, absolutely nails victim satisfaction and they're the two weak links in all of our current practice. Why? Because the traditional criminal system hasn't got a hope in hell of tackling those because it's got the wrong model. [T/Chief Constable].*

This highlights the importance of the Chief Constable's position in bringing about change to the organisation. It is worth showing the context of the full quote to highlight the passion the T/Chief Constable displays in relation to restorative justice. It is seen as a crucial addition to the force. This is significant; the force was not implementing restorative justice because it had been recommended by national guidance. The force leadership was passionate advocating its use and using every opportunity available to embed the use of restorative justice across the force. It is this 'total commitment' from the executive, not just fulfilling a quota or ticking a box that is imperative: "Really it's that buy in at the top, if you don't get that total commitment, if it is only lip service, then actually you can forget it" [IV10].

Top command and middle managers tended to place great importance on the role of leadership, particularly the Chief Constable and also now the PCC, in implementing restorative justice:

*Yeah you've got to have that buy in at the very top because that provides the leadership, the drive ... if you don't have that champion within the force, within the top team it is much more difficult to sell it to your frontline officers ... one of the key ingredients of success if you have the two critical ingredients if you've got the PCC backing it and if you've got the Chief Constable backing it, it's going to work [IV10]*

Without the drive from the top and particularly the Chief Constable restorative justice would not necessarily be on the force's agenda. It is this vision that is crucial to implementation: without a systematic vision and focus restorative justice reform will not happen (Bazemore

and Griffiths, 2003). Although some middle managers believe that the drive is coming from a national level, for others having a Chief Constable who supports it means that the force is 'one-step ahead':

*I think there's no doubt that some of what we're doing is coming as a result of a national push anyway ... but I think one of the reasons it's been driven the way it is in this particular force is because the leadership of [Chief Constable] I think we're probably further ahead in our approaches than many other forces if you were to look at what happens elsewhere, and I do think other forces will be taken down this route because of the national push but I think we will be in a very strong position in this force. [IV4]*

However, as discussed in Chapter Eight, some frontline officers do not all share the same level of confidence. Many officers are sceptical of reform (Skogan, 2008:31); they had seen many 'new' ways of working come and go and many saw restorative justice as just 'another thing'. The majority of officers had served for a number of years and so were used to changes in leadership and how new managers or senior ranking officers would try making their mark; new leaders are generally uninterested in seeing through their predecessors half-finished plans (Skogan, 2008:33). As police staff it was a running joke that every time a new manager was introduced, the department would undergo various changes; most notably a name change. Core business would remain untouched but there would be a different acronym and a 'new' project not dissimilar to one that had been tried before. Many officers, saw restorative justice as something that they were doing previously but under a new moniker. For those who were sceptical about restorative justice therefore the change in leadership was not perhaps of great concern, for them they would carry on doing what they had always done.

However, for those who had 'bought in' to restorative justice and had invested their time in taking part in training and carrying out restorative conferences there was a concern that restorative justice may only be temporary or fleeting: "My worry is that if he [Chief Constable] goes somewhere else he might take it with him and the whole thing disappears" [FG1P6]. This is a valid concern; the focus groups were taking place at the period of change where the Chief Constable's role was only temporary. Again there was a particular focus by frontline officers on the immediate future, on practical issues. Focus group discussions discussion officer did not place a great deal on national trends regarding the use of restorative justice<sup>16</sup>. For them it was 'the Chief's baby', and the Chief was the main driver behind the implementation.

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<sup>16</sup> Officers are very much aware of national issues in relation to some aspects of policing, for example regarding austerity measures, The Windsor Report etc. However restorative justice was regarded more in terms of other NCALT training packages, it is not seen as core business.



*Well I think from the outset it was [the Chief's] drive wasn't it? And it was part of his 100-day plan from him. So as far as I'm aware there's a clear steer from the executive in this is the way we're going [IV5].*

Officer's responses captured the state of flux within the organisation, due to the change in the executive and the temporary nature of the Chief's post. The new restorative approach had not yet been launched so officers were unaware of this further push to embed restorative practices across the force. Whilst there was an understanding across frontline officers that the force was doing restorative justice, unlike other initiatives such as problem-solving, it was had not been specifically incorporated into the force 'vision'. Frontline officers were unsure whether restorative justice would continue to be implemented if the Temporary Chief was not made permanent. Skogan describes the leadership transition phase as something that takes up a lot of time (even if no change has been announced) as workers debate how long a leader will remain in the role and therefore where to place their alliances (2008:32). Leadership transition "slows everything down, as uncertainty over the future course of the department will be read by many as a rationale for cautious inaction until the situation is clarified" (Skogan, 2008:32). Indeed many officers perhaps had a right to be cautious. The idea of restorative justice being a Force vision was discussed during the interview with the Police and Crime Commissioner:

*It's always been the case that when you're appointing a Chief Officer the Chief Officer has got to have some sort of buy in to the philosophy...so I think er were you to have a Chief Constable apply for the post who wasn't a fan of restorative justice then that would lead to a line of questioning, and it may lead to that person not actually getting the appointment. [IV10]*

Discussing this further the PCC discussed the process involved in appointing a new Chief Constable, describing the use of a 'candidate briefing pack' which contains the PCC's priorities and Force vision. However, there was no mention of restorative justice in the briefing pack.

*IV10: what happens is when, er, here - 'candidate briefing pack', when you're appointing a Chief Officer this sort of thing goes out and it's got there what my [PCC] priorities are, so if a Chief Officer wanting to apply didn't like them, well good idea not to apply! So it's there, it's spelled out so there bits in there about I'm not sure if its [restorative justice] mentioned in here*

*[Looks through pack]*

*IV10: I can't see it ... I can't see it off hand but you know by and large ... no, so there is no mention of it, so I'll have to do that for next time! [Laughter]*

This was perhaps an oversight, but it does highlight how integral the impact of the Chief Constable is to the implementation of restorative justice. There was no stipulation in the force pack that a new Chief Constable should be a supporter of restorative justice. Whilst

ACPO plays an important role at a national level the Chief Constable's role is pivotal from a force perspective.

Whilst the role of top command is pivotal in the implementation of restorative justice across a police force the buy-in from middle management is crucial if frontline officers are going to use it. The importance of middle-management was highlighted in Chapter Eight when discussing one of the biggest obstacles to implementation. It is not just the force leadership at top command level but frontline officers' supervision also needs to be actively promoting the use of restorative justice. For successful implementation communication through the ranks needs to be considered:

*The message has to come very clearly from the top right at the beginning because it's very much ... a push from [the Chief Constable] and that needs to transcend down all senior management teams right to the front line, and that's why with the communication plans, the face-to-face briefings with the SMT [senior management team] members is a crucial part. [IV4]*

Part of the way in which the force tried to encourage middle management to use restorative justice was through the recruitment of a dedicated steering group. The use of a dedicated working group/steering group will be discussed in more detail later in this section, however, it is critical to note the deliberate recruitment of senior and middle managers, across all commands, to form the group was used to convey a strong message to frontline officers in relation to the commitment across all levels of leadership to the new restorative approach:

*If I look at who sits on the working group now we've got SMT [senior management team] from ... neighbourhood ... partnerships ... crime and from tasking and co-ordinating so at even within the working group sphere we've got buy in so it would suggest that officers above them so from the executive and across the board are pushing it. [IV3]*

There is also a further layer to consider in terms of leadership: those appointed by the executive to implement restorative justice. For the re-implementation a new Superintendent was given the task to create a strategy of implementation, to put in place policy, to deliver the training, to ensure effective communication and to create the necessary infrastructure (such as IT changes). This role is not necessarily about being a passionate advocate for restorative justice (although this of course helps) but about having the "right personalities" [IV7] and skills "driving it":

*I think having spoken to the Chief it was about my personality, and you know I'm generally classed as somebody that can deliver, can embrace things that are different and you know manage change if you like because that's my bag. [IV7]*

Personality is an important feature relation to how officers were selected for the steering group. Drawing on Gladwell's Tipping Point theory and the 'law of the few: connectors,

mavens and salesmen' (2000:30) those picked to aid the implementation of the new approach did not all emerge or volunteer from previous training or use of restorative justice. It is completely opposite to recommended approaches which encourage those who have already received training to form part of a 'champions group' and specifically warn against the artificial creation of a group at implementation (Lambert, Johnstone *et al*, 2011:60). In this case study the leadership devised an implementation strategy based on success, on 'selling' restorative justice: "the 100 day is all out total propaganda, war, sweeping changes" [IV1]. Gladwell argues that the "success of any kind of social epidemic is heavily dependent on the involvement of people with a particular and rare set of social gifts" (Gladwell, 2000) (2000:33). It is therefore a significant feature to note that the people who were in charge of delivering the restorative justice implementation programme were not necessarily selected for their passion, training or experience of restorative justice but for their personalities, their managerial skills and also their credibility across the force, which often came not only from their rank but from their role too, particularly if there were involved in stereotypical 'crime-fighting' roles or crime management roles or in crime and justice commands:

*I think that it helps that I'm leading on it because I've got credibility across the force, people know that I know how to manage crime, they know what my background is. I'm quite confident that if I speak to senior managers ... that if I go round and speak to staff ... 'restorative justice' they are more likely to accept it coming from somebody like me and coming from people in the working group because they've all got credibility. [IV7]*

Overall, whilst national policy and guidance on the use of restorative justice is relevant, without statutory change it is still essentially the Chief Constable who drives its implementation across a force. As was the case in Thames Valley, there is a risk that if the Chief Constable leaves then restorative justice might struggle (Hoyle, 2009:197). The risk is exacerbated if support for restorative policing (political support, within partner agencies, and support within the community) is not garnered (Skogan, 2008). Whilst restorative values should be embedded in the force's vision it is often perhaps overlooked, as was the case in this force's candidate briefing pack. Since 2012 the PCC also plays a part in the implementation of restorative justice, as an elected position restorative justice did not feature on the agenda of the electorate. Having a PCC and a Chief Constable both championing the use of restorative justice is clearly a crucial part of the implementation process. It is also apparent that the right people with the right skills (not necessarily in relation to restorative justice) need to be in place to ensure a consistent message is delivered through the different commands and down the ranks, particularly to the frontline officers. Leadership is a key part of the implementation process: "I think you know with our organisation we've got some really good leadership and some strong leadership and ... then our Temporary Chief who is

right behind restorative justice” [IV7]. This strong leadership includes both top command and middle managers who formed part of the restorative justice steering group, a working group dedicated to implement restorative justice. The importance of this working group will be discussed in more detail in the following section.

### **Steering group**

The steering group was new to the re-implementation process and was specifically brought in to aid implementation. Most initiatives implemented across police forces are done without input from rank and file officers (Skogan, 2008:27) despite research indicating that including officers in the decision-making process can enable implementation as they offer less resistance to change (Skogan, 2008), become ‘change agents’ (Toch, 2008) often become problem-solvers and planners (Wilkinson and Rosenbaum, 1994) and perhaps even become advocates for the vision of reform (McLeod, 2003). The steering group was comprised of officers representing all commands and including specialist units, including the road policing unit. There was a range of male and female officers across all ranks from Sergeant to Superintendent. Steering group members were both nominated and also hand-picked. The following quote describes the selection process and criteria:

*Initially we went to the commanders and asked for nominations, because it’s always better to get nominations than press people. And then you look at some of them and you’ve got to look at their agendas: some of them might come on board because they want promotion, some of them might come on board because they actually believe it’s the right thing to do. So we took some time and looked at the people that were put down, and then we went and spoke to certain people in the organisation that we knew were sort of key individuals who were able to influence others, but who were very positive in their outlook. Who were always - their glass was always half full, and we encouraged them to come on board. And that’s how we so we had a mixture, but from every different command, but I think the main thing that we looked for was people who were positive. [IV9]*

The previous implementation did not have the structure of the steering group. It was left to officers to grow and develop restorative justice within their units; implementing restorative justice was seen to be an organic approach. The idea that once officers caught on to it they would want to do it and it would naturally grow and develop.

*When we first introduced it and I left them to it, coz I thought I’m now going to leave it to these people who are part of the organisation: so rather than it being imposed they can grow it from within. [IV1]*

During the initial implementation there was no specific chain of command – in fact two or three officers had deliberately been put in charge of developing restorative justice, which created confusion and may account for the mixed messages frontline officers received. For the re-implementation the steering group was very clear in its approach, there was a clear hierarchy. Various ‘work streams’ developed: Communication; Leadership; Performance,

Accountability and IT; and Training. Sub-groups were created around these different work streams and officers reported back to the steering group at regular meetings.

*I think it's a quite comprehensive plan; it's been quite pleasing to see how it's been pulled together, how the steering group worked effectively. It's been managed quite well around identification of key work streams and very quickly when we've identified overlaps we've brought the groups back together again in a steering group to make sure that we weren't duplicating, so as a process it's worked very effectively. [IV4]*

How the groups were comprised is perhaps most interesting. As mentioned earlier in this chapter Lambert and Johnstone *et al* (2011) specify that working groups of restorative 'champions' should naturally develop from those committed to restorative justice who form the group. This police model is very different; whilst some of the steering group were experienced restorative justice facilitators, many had no direct experience or specific training in relation to restorative justice before taking on the steering group role. Whilst members became knowledgeable about restorative justice as part of this new role, it was their other skills and knowledge of their areas of business that was key. So, for example, the road policing unit needed to use restorative justice in a different way and their knowledge of their role, combined with others' experience of restorative justice, enabled the group to create a restorative approach that was suitable for all areas of police work. In addition to their knowledge in relation to their area of business, and knowledge from previous roles they held, some were hand-picked as they were seen as having credibility in their command and so could 'sell' the product of restorative justice to the masses.

*Do you need the right people to do it? Absolutely, you need people with credibility, a proven track record of driving things through ... I think I've got the right people on the working group that other people look up to and they've got the credibility so the personalities are right. [IV7]*

It is clearly important to have the right people in place for implementing RJ across a force. Leaders need to be passionate advocates for restorative justice and committed to seeing its implementation across the force, and the right working group needs to translate the policy into practice for use by frontline officers. By the same token, other organisational factors that may affect the implementation are also notable. The following quote from a top command officer suggests that it is not enough to have 'the right people' and the 'the right processes' but to consider other internal issues and organisational changes:

*So it's the right time: you've got the right people, and we've made the necessary changes [changes to IT systems, crime recording system, and performance framework] to kick on. And I think if you bring all those things together then the time's right to do it. If you had two of them and not one of the other so for example if I was still leading on it and we had that working group but we were going through the force operating model I think the organisation is mature enough to say not yet, this would be too much [IV7]*

However, the inclusion of middle management is a ‘crucial’ factor in the implementation process especially if the philosophy and practice of restorative justice is to be implemented with integrity (McLeod, 2003).

## **Cultural changes**

### **Performance culture**

The creation of a new ‘positive outcome’ in 2013 provided an opportunity for the force’s implementation of restorative justice. The issues surrounding performance culture has already been identified in Chapter Eight as being one of the key factors in relation to why the previous attempts to implement restorative justice failed: there was too much focus on detection rates and despite assurances from top command there had not been a cultural shift towards new performance frameworks that included restorative justice outcomes.

With the re-launch of restorative justice there was also the knowledge that national changes to crime recording were to be implemented and all ‘positive outcomes’ were to be recorded, hence negating the ‘non-sanctioned detection’ element of restorative justice that was seen to be at the root of previous problems. It was unfortunate that the change to positive outcomes, and the ability for force systems to easily record and monitor the use of restorative justice was not in place before the re-launch and the new training started. In practical terms officers were therefore not provided with practical information in terms of how this would be recorded as the IT systems were not yet in place. Although a clear message was given during training sessions that there was a move away from a focus on detection rates and towards positive outcomes, a prevailing performance culture remains an issue, with the ‘non sanctioned detection’ being only one element of the problem. If the force still favours ‘crime fighting’ then the pressures that frontline officers were receiving from the immediate management could potentially still continue.

One manager describes the performance culture back in 2008 when restorative justice was first implemented:

*Our remit was to reduce crime and increase sanctioned detections, particularly around burglary and vehicle crime, so it was a pretty hard-edged tough sort of enforcement and the force wasn’t really in a good place” ... “was it the right time for me with my remit, if you like, to reduce crime, increase sanctioned detections, to embrace restorative justice?...I don’t think the time was right! [IV7]*

The senior officer goes on to note the change that has taken place since then: “we’ve cleared the wood from the trees now; we can see...we’ve got burglary, vehicle crime and other types of crime in the place that we want it, which has created some space for us to do something different” [IV7]. Whilst the first implementation had taken place during a period of relatively high crime rates for the Force there had since been a year-on-year decrease in

crime and anti-social behaviour across the force. This created space for new ways of working and allows the use of restorative justice for some crimes and incidents. However, this does not mean that there has been a shift in performance culture, although there are plans within the force to change accountability so that all aspects of the organisation recognised ‘positive outcomes’ and used this terminology instead of focusing on ‘detection rates’. This is seen as a critical part of embedding restorative justice: “There are plans in place around accountability mechanisms; senior officer and executive sign up, getting into that performance culture until we sort of embed it really.” [IV7]

Therefore, whilst there had been a national change in performance measures towards the recording of restorative justice as a ‘positive outcome’ a change that could potentially alleviate one of the key barriers to implementation that was discussed in Chapter Eight may not make as big an impact as hoped. Legislative change does not necessarily bring about culture change. Performance culture may be entrenched throughout a police force: it is not just about Home Office ‘counting’ rules but the use of performance as a daily, weekly, monthly and annual measure of success and failure at both tactical and strategic levels across the force. Chapter Eight highlighted it is often direct supervision’s focus on performance and incentives to use restorative justice that most affect frontline officer’s decision to use it. In addition to the performance culture operating within a force there is also the potential political pressure to be seen as being ‘tough on crime’ if crime rates were to increase. The importance of educating and involving communities to garner support for restorative policing therefore cannot be overstated.

Performance culture is a symptom of a bureaucratic force. A force that is command and control orientated, that focuses on traditional performance measures, and that does not count the things that matter (McLeod, 2003, Skogan, 2008). Real opportunities for reform can only occur when there is a philosophical shift towards a ‘new way of doing business’ (McLeod 2003:377). The next section will explore the potential for this shift in philosophy that was created through the launch of problem-solving.

### **Embedding problem-solving**

Both problem-solving and restorative justice were launched at a similar time across the force and the links between problem-solving and restorative justice were recognised across frontline officers, middle management and top command. For a small number of frontline officers restorative justice was seen as a “problem-solving initiative” [FG2P2] potentially because it had been launched as something that resulted in reduced demand for service. Others described it as being about “local problems being resolved” [FG4P4]. Middle managers, however, saw problem-solving and restorative justice as much more intertwined:

“Part of the restorative approaches that we wanted to bring in is about speaking to people, identifying problems and issues to reduce demand and that’s basic problem-solving.” [IV9]. Middle managers very clearly expressed how they wanted restorative justice to be incorporated into everyday working across the force, part of the problem-solving culture that had started to become embedded over the preceding years: “what I want it [restorative justice] to get to is I want it to become part of our everyday work and part of how we solve problems.” [IV6]

Interestingly, as both restorative justice and problem-solving had been launched across the force at the same time one middle manager identified the process: that restorative justice was perhaps needed first – it helped to create a problem-solving culture: “RA was a sort of a key to open that lock and start those discussions, and on the back of that you can start problem-solving.” [IV9]. Here, it quickly becomes evident just how interconnected restorative justice and problem-solving are: can one be implemented without the other: do you need an organisation that has embedded a problem-solving culture to launch restorative justice, or is restorative justice needed to create the space, the different way of describing and thinking about crime in order to allow problem-solving to flourish? McLeod indicates the stages model of restorative policing implementation requires a shift from a bureaucratic to a post-bureaucratic organisation before restorative policing can be embedded: there needs to be recognition that whilst a force is not fully restorative, previous attempts at implementation help pave the way for reform. There are also further considerations to take into account, for example if a force is effectively problem-solving then it should also see a reduction in demand for services (less crime, less incidents, less calls to service etc.). As we shall see later in this chapter restorative justice needs this space in order to develop; it is much more difficult to implement restorative justice if crime rates are high and performance is a priority. It is felt by management that it is a combination of factors that creates optimum conditions for restorative justice to be implemented: “now, on the back of that we are effectively problem-solving and we’re effectively dealing with offenders, we’re reducing demand and now is the right time again to launch RA” [IV9].

Despite the risk that frontline officers could regard restorative justice as just ‘another initiative’ or that some of its key values may be subsumed and integrated into other initiatives such as problem-solving it is perhaps the launch of different initiatives that slowly creates a philosophical shift across all elements of an organisation.

### **Organisational culture**

Middle management appear to be aware that restorative justice is more than just giving frontline officers a few hours training and then them going off and doing restorative justice.



It is impossible to accurately ascertain if this awareness was in place back when restorative justice was first launched in 2008/09, however the discussions in some of the focus groups alluded to a lack of understanding in relation to this. Learning from past mistakes is seen as a key part of this re-implementation and, as the following two excerpts from middle management show there is a genuine acknowledgement by those implementing the new restorative approach that they are attempting to create a culture change across the organisation:

*I think for me the biggest obstacle is erm I'd probably go with the culture and communication issues and I know you asked for one but the two are intertwined, by communicating upwards and downwards we change the culture of an organisation, but the culture has got to be ready to accept that. And that's why it didn't fly the first time, because the culture wasn't ready to accept it. So by acknowledging that we can adapt communication, start picking off some of the key issues but the cultural change in the organisation is making that easier for us. So that's what I'd say the obstacle around us bringing it in was around the cultural issues [IV9]*

*I think also this time we've learnt from why it didn't work, or we've tried to sort of produce a better product really because we gave kind of half a morning session on this is RJ and then we ask well why are you using it and it's because it's total culture change, people aren't familiar with it. People don't know how to do it really, so they don't do it, because they've not been encouraged to do it - and then we ask well why aren't they doing it? So I think this time it's a lot more through and we're investing in that training to get the rewards at the end. [IV2]*

Training and communication are seen to be the key ways in which to help create this cultural shift. The steering group that was set up to implement restorative approaches recognised these two areas from the start of the project and smaller sub teams worked on them. From the training perspective it was decided that a bottom-up approach would be taken so that frontline officers would take ownership of it. The training was developed in-house but linked in to the restorative justice council and their charter marks. The senior officer leading the training development describes the approach to its development as such:

*So we decided having looked at the previous training I wasn't really happy with it and we decided to do a complete rewrite of the whole training but not get our training department to do it. So I pulled together a focus group ... I got various different commands ... crime and justice, response, neighbourhoods, T & C [tasking and coordination] department from all the different areas [geographical areas or localities across the force] to sit in a room. I went through the old training and I went through ... the outcomes that I want from the new training. And then I said to them, 'right, we're going to lock ourselves in this room and we're not leaving until we do this!' And the basis or the theory for that was to write some training that was easily understandable by the cops, er they would be able to sort of acknowledge it and understand it and it wasn't above them. [IV9]*

This long excerpt is salient as many, particularly the top command, ascribed the failure of the previous implementation as being, at least in part, down to the training. Here this senior manager clearly recognises that the bigger (and more complicated issue) of organisational

culture is a crucial factor. The reasons for not employing the training department or investing further in an external company to deliver the training were to create this bottom up drive. To engage with frontline officers and to recognise the questions that they had in relation to restorative justice. The final training incorporated some of the initial findings from the focus group sessions, which focused on the practical aspects of ‘doing’ restorative justice. All the questions and issues that frontline officers raised across each of the four focus groups were compiled into a checklist; this was used as part of the training development so that all the questions raised were answered in detail. For the initial two day training roll-out the checklist (Appendix D) was provided to all officers so they could check off or make a note of the answer to every question they raised.

What is striking, and true to the typology put forward by Farkas and Manning (1997), was that top command saw the aim of the training as being something completely different; for them training should “light people’s fire” [IV1] and engage people: “I want people who are passionate advocates, passionate practitioners training people, you know – people with street cred” [IV1]. By recognising the issue in implementation as being due, at least in part, to organisational culture it was therefore possible to have trainers who were passionate advocates of restorative justice, but who also dealt with the micro-level practical issues that the frontline officers described as being some of barriers to them carrying out restorative justice.

It was very clear when talking with members of the restorative steering group and for some officers that I met during the focus group sessions that the force had many passionate advocates for restorative justice. However, it was recognised that at the start when restorative justice was first rolled out in 2008/09 many officers were against it. As discussed in Chapter Six during the first rounds of training many officers were ‘anti-restorative justice’. Managers now were much more attuned to the needs of officers and the need to bring about cultural change and the need to appeal to ensure that the new training was more appealing to officers:

*I think once they’ve been through the training, and tested it, and tried it, then we’ll get somewhere. One of the greatest barriers, I think, is ... we’ve gone through a journey around reducing staff, reducing cops: demand’s gone down - but we’ve reduced our cops as well. So we’re in a difficult place, and I think what I need to do is [to try] to get the culture from quantity to quality, because you speak to cops and [restorative justice] is ‘another thing to do’ but ... this is actually about reducing demand, preventing offending and empowering victims. [This is the picture] we need to get across. And all of those things are covered in the training programme ... we’ve got one message that the training programme is built, that it has been developed by cross command working group, and then we’ll get it in, and then we’ll start changing the culture of our organisation - hopefully. [IV7]*

*I think is just getting over that culture switch from the enforcement side to try and get operational cops that are generally wired into demand, as in, you know, we've got a radio, we've got to get there within fifteen minutes, we've got to deal with it, we've got another job to move on to actually, without thinking about the problem-solving, empowering victims. And I think we get that bit, we get the victim bit but switching on to reducing demand and reducing reoffending and it's that quantity versus quality, that's what I see, is the biggest challenge." [IV7]*

In generally the mood across the steering group as they were about to launch the new restorative approach was positive. Officers were seen as ready for the re-implementation. In particular, there was recognition of the current problems facing staff as a result to the cuts and therefore there was an emphasis on how restorative justice would help to reduce demand:

*I think people are ready for it, people understand that they're really pushed and really busy and they want to do something that is going to reduce the demand on them so I think we're probably in the right place again when we have the training that we produced. [IV3]*

Despite this positivity there was an acknowledgement it is a very big task and that whilst the timing might be right in terms of cultural shifts and the workforce being more adaptive to change there is still never a good time to launch a big project like this. Furthermore saying that restorative justice would help reduce demand was one thing, but there were no extra resources, for example, a co-ordinator to help organise conferences, therefore officers would still have to find this time in addition to their workload. The impact of spending cuts was one issue raised, and some middle managers were worried that they were already asking their staff to do more with less:

*Hearts and minds that's a practical issue ... It's marrying up, or it's changing that culture from purely performance in terms of detection of crime, in terms of conviction, to solving the problem and through things like restorative justice and solving the problem in terms of the criminal or the potential criminal, or on behalf of the victim and being victim focused or victim centred. It's not a journey we're afraid of making, but it is a difficult one when we're already asking so much of the staff as it is. They're already working ridiculous hours I've got people turning down overtime left right and centre who are short of money because they just can't work anymore. They're just tired and under loads and loads of family stress ... and everything else. I'm not saying that everybody's like that but a lot of people are so it's another big ask on top of dwindling resources. [IV6]*

This makes a very important point in relation to some of the issues faced when implementing restorative justice across a police force. Unlike other organisations the police force cannot stop for a day or even for a few hours, the wheel is constantly turning. Restorative justice cannot be delivered across the force as a whole in a single 'training day', even when booked to attend the training officers were still likely to have to reschedule or to

be called out if an incident arose. After the training session the officers do not go back to a clean desk ready to start doing things ‘restoratively’ they go back to their ongoing cases and while they might want to consider using restorative justice when they get a minute to get their head around it, that minute may never come. Whilst cultural changes may enable greater acceptance of restorative justice, practical barriers still need to be addressed.

## **External agencies**

This section describes the impact of national responses to the use of restorative justice. No particular government policy or strategy was mentioned during the fieldwork process; however the spending cuts and austerity measures featured when participants were asked to consider national issues. Local and regional changes perhaps had the most impact in terms of creating opportunities for the force to re-implement restorative justice. Partnership working has developed over the preceding five years and is now more commonplace with links between agencies accepted, normalised and embedded. A county-wide restorative justice steering group was launching at the same time as the re-implementation of restorative approaches across the force. More partner agencies are now either already using or developing their use of restorative justice. This has created an opportunity for the force to start to problem-solve many of the issues previously discussed in Chapter Eight in relation to the practical difficulties of using restorative justice in the criminal justice system.

When restorative justice was first launched across the force in 2008/09 it was part of an overall aim to build a ‘restorative county’. This ambition did not quite take off as quickly as it was first anticipated, however by the end of 2013 a county-wide steering group was established and there was a commitment to introduce restorative approaches across many different agencies.

*We decided the time was right with the, as I call it, ‘the partnership landscape’. What changed? Government’s obviously set an agenda now and obviously it’s big on their [partners] agenda because it’s about putting victims first, giving the victims a voice and that’s one of the criticisms of the criminal justice system. [IV9]*

The national policy agenda has therefore been a key driver for partner agencies to think about the role of restorative justice in relation to their own spheres of practice. As the above quote indicates, this is partly due to the shift towards the agencies in the criminal justice system providing a victim-focused service. The shift towards a partnership approach is also linked to the spending cuts and the need to spend money efficiently. As we have seen throughout Chapters Four and Five restorative justice is heavily touted as a means of reducing reoffending. Other agencies are open to the potential benefits of it too, not just in the criminal justice system but beyond:

*Pushing RJ within the schools, so again it's like catching on. And also it's got to be beneficial - when you look at exclusion rates from schools if they can find a new method it makes the school look more successful. [IV2]*

The added benefits of restorative justice; decreasing reoffending rates, increasing victim satisfaction rates, making organisation and agencies look more successful are all additional drivers. The excerpt below, although lengthy, explains how these different drivers (government agendas, having to achieve more with less money, established partnership working) inter-relate. There is also the extra factor that, unlike many other initiatives, those on the ground - those who have witnessed restorative justice in action often have a passionate belief in its success:

*I think push from government, predominantly. Further spending cuts through the spending reviews means we have to look at ways not only look at victims and look at the outcomes ... but also to do it smarter and reduce demand, we've got to do that. A willingness of the partners now to all come on board and work together, so we did have a good partnership ethos and good partnership working but now ... RA has been written into their agenda so they've got to comply and there is a willingness now to do it. And then I think sometimes it takes time to turn an oil tanker around, and when you start seeing results and you've got people who were totally against it and then they talk to victims and when you talk to victims who have ... gone through the restorative approaches system and what they say is just mind-blowing, it changes their lives and how they can move on with their lives, so I think there's some of that in it as well. [IV9]*

There are clear benefits of restorative justice featuring on the government agenda and for partner agencies. Firstly because it sends a clear signal to all officers; having a restorative force as part of a restorative county, combined with a clear steer from top command that is reflected in government policies is valuable as there is recognition that this is not just an organisational fad. Secondly it makes things easier:

*I think it's easier because we've got government pushing for it, because its brought on board probation, youth offending and they all want a piece of the action. Which is much easier if everybody is willing, or it's inevitable for them that they've got to move into that place. [IV7]*

A particular way this partnership provides opportunities for the force is that some of the previous, practical realities faced by frontline officers such as running restorative justice alongside a criminal investigation could not be solved by the force alone as it needed other criminal justice agencies to agree on the specific processes that the use of restorative justice should follow. One of the key obstacles raised by officers was the issue in relation to reparation. The following abstract describes how it was only after working in partnership with the Crown Prosecution Services that protocol in relation to reparation could be developed:

*I think one of the other issues ... which was always a big sticking point was if a cop goes for a restorative approach and the person doesn't complete it, can we have two*

*bites of the cherry? Can we then bring them in before the criminal justice system? And we could never get the CPS [Crown Prosecution Service] to agree because it's like two bites of the cherry; and would then the interview or the cops talking to them [the offender] would it constitute an interview? And then would it be inadmissible under the police and criminal evidence act, PACE? So we sat with [CPS solicitor] for half a day and we thrashed that out and he said 'no, I'm more than happy because it sits outside of PACE that you can bring them in, as a voluntary attender or arrest them, interview them and then we would prosecute them. All being that common sense has to prevail, so if you give them a restorative approach and they said I'm going to pay £100 back to that person, they paid £90 back and didn't pay the last tenner then we wouldn't take them to court, but if they didn't pay anything back then we would take them to court. Now that's a big hurdle to get over when you're standing in a classroom full of officers and that's the question they are asking because they know they are going to get performance managed, they know their managers are going to ask them. If they can say well 'yeah, I did that, it didn't work I can take them to court' that's a big hurdle. [IV9]*

This is a significant breakthrough, and opportunity for the force. As the final sentence in the quote above explains, the force had previously been unable to give frontline officers a clear steer. In theory they were able to do restorative justice and victims and offenders could agree on particular reparation but if the offender did not fulfil his or her obligation the officers lacked a clear recourse. We start then to see how solving the practical problems frontline officers faced in the initial restorative justice implementation creates opportunities for its use. This example highlights a local response to a problem; however, the arrangements put in place are built on personal relationships and may not withstand organisational changes or movement. Since this research was conducted the Crime and Courts Act 2013 (Schedule 16) has been implemented to allow courts to defer sentencing while restorative justice takes place. Whilst this is a step in the right direction until there is a statutory basis for the use of restorative justice in England and Wales it is likely that barriers between agencies working within the criminal justice system will still occur.

## **Summary**

The chapter examined some of the organisational changes that occurred over the four year period, starting from when restorative justice was first implemented up to, and including, the 2013 re-launch of a 'restorative approach'. Major structural and staffing changes occurred during this time period which created a 'window of opportunity' (Kingdon, 2003) for successful implementation. The findings highlight the importance of leadership and vision in implementing change and bringing about reform. The transition between leaders is a critical tipping point within an organisation. It is a time where new programmes can be launched and where previous attempts at reform can fail (Skogan, 2008). As discussed in the Chapter Eight resistance to reform often comes from middle managers, however, there are opportunities to engage middle management in policy reform through participatory involvement (Toch, 2008). Employing middle management as 'change agents', involving

them in the design and implementation of restorative policing, can aid reform (Toch, 2008:60-1). The force's use of a 'restorative justice steering group' comprised mostly of middle management was therefore explored in more detail, particularly with regard to the need for engaging the 'right' middle managers: not necessarily in terms of their knowledge and experience in relation to restorative justice but their broader skill sets including their 'credibility' and ability to transmit the idea of restorative justice to frontline officers. It found that there is a distinct need for officers in charge of implementing new policies to ensure that the needs of different commands and particular police functions and roles are consulted and that their specific needs are addressed. The research found that the use of a cross-command working group or 'steering group' was a key opportunity in both the implementation and the marketing of a new cohesive restorative policy.

The role of police culture has been a cross-cutting theme across all the research findings; this chapter took the analysis further to consider in more detail the cultural shifts that have occurred across the force during this four year period. A key finding was the role of police performance culture; the research covered the period when restorative justice outcomes changed from a non-sanctioned to a sanctioned disposal method. Whilst not assessing the impact of this change the research found that it is wider cultural issues in relation to how outcomes are considered amongst middle managers that are likely to have more impact on frontline officers 'doing' restorative justice than national crime recording system. However, the change in policy creates an opportunity within the force to consider their performance framework in more detail – the move towards 'positive outcomes' and the incorporation of new terms and dialogue in informal performance encounters, such as in the daily 'morning meetings'<sup>17</sup>, between frontline officers and their sergeants has the potential to be a positive opportunity. The chapter also explored how other cultural changes, including the embedding of problem-solving, helped to bring about reform and create new opportunities for the re-implementation of restorative justice across some areas of policing, particularly for neighbourhood commands.

The final section of this chapter explored the impact, or perceived impact, of external policies, government agendas and partner agencies in relation to the force's implementation of restorative justice approaches. Having already discussed the specific change in Home Office counting rules with regards to restorative outcomes, the findings suggest that this

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<sup>17</sup> As part of the new Force Operating Model new internal performance/update meeting structures were introduced including daily morning meetings and weekly 'wash up' meetings where sergeants and frontline officers discuss events and outcomes. These meeting provide the opportunity to update line managers with regards to officer's workload and also provide the opportunity for informal praise regarding 'successful' work: previously this would involve detections although the hope was this to be focused towards 'positive outcomes' to include restorative approaches.

does not only create internal opportunities for change but sends a strong message to officers that changes are less localised, and more permanent. The chapter concluded by considering whether the successful implementation of restorative justice can be attributed to individual factors or whether it needed a 'perfect storm' of events. Findings suggest that just as the initial failure of the implementation of restorative justice can be attributed to many barriers so the opportunities for successful implementation rely on a mix of strong leadership and vision and cultural issues specific to policing. However, this chapter has also considered some of the practical methods this particular force introduced in its aim for successful implementation.

The final chapter will summarise the research findings, return to the literature and assess the implications for practice that these results show.



## Chapter 10: Summary and concluding thoughts

### **Introduction**

This study set out to explore how restorative justice policy has been accepted, communicated, understood and implemented at a local level within a police force in England and Wales. This research used one case study of a police force as it attempted to re-implement restorative justice, following a previously unsuccessful attempt. The micro-level analysis provides a much-needed insight into the potential opportunities for implementation and the barriers and constraints faced by a police force. The study sought to answer three research questions:

1. What are the organisational and individual understandings of restorative justice: how is 'restorative justice' defined by a police force and understood by its staff?
2. What are the key opportunities with regards to successful restorative justice policy implementation?
3. What are the constraints and limitations when implementing restorative justice policy across a police force?

This concluding chapter will synthesise the main findings of the research, addressing each of the research questions in turn to consider these findings in relation to the literature discussed in Chapters Two, Three and Four. It will discuss the ways in which this research contributes to knowledge and the practical implications of the findings whilst considering some of the limitations of the study and how the research could be developed in the future.

### **Summary of main findings**

#### **Research Question 1: Understandings of restorative justice**

This study explored some of the multi-faceted ways in which restorative justice is understood across a police force both in policy and practice. In doing so it built on previous research that demonstrates the importance of recognising the impact of police culture when implementing policy. It argues that this is particularly important when applied to concepts that lack a precise definition, such as restorative justice policy, due to the way in which it is reliant on frontline workers to interpret and carry out directives (Lipsky, 2010). This is particularly problematic in the context of a police force due to the different understandings that can occur, especially in relation to the hierarchical nature and orientation of different ranks and roles of officers towards different aspects of policy. Using Farkas and Manning's (1997) model of police culture this thesis puts forward a 'continuum of understanding' to

demonstrate how subtle differences between different ranking officers leads to a large disparity between frontline officers and top command. The research also showed potential cultural differences particularly across officers' functional roles, demonstrating that detective constables working in traditional 'crime fighting' roles (such as crime and justice command) found restorative justice less relevant than their colleagues in 'peace-keeping' roles (such as police constables working in neighbourhood command). The way in which officers are culturally orientated impacts on the way in which they absorb, understand and ultimately action new policy.

This study found that in general (and with the exception of the more nuanced understandings presented by top command) police understandings did not reflect academic understanding. The main divergence between police and academic definitions is the lack of consideration by police officers to the way that different processes potentially offer different outcomes: particularly in relation to issues of restorativeness. This is exacerbated by the way that ACPO guidance presents restorative justice processes as 'Level 1', 'Level 2' and 'Level 3', as described on page 76-77. This study found that frontline officers offered little distinction between Level 1 and Level 2 conferencing; the only difference of note was recognition regarding the amount of time it took to deliver. This is surprising given the volume of academic writing surrounding restorative processes and it demonstrates a failure to acknowledge recent concerns that Level 1 lacks restorative value (O'Mahony 2012, Parker 2013). This is further exacerbated at an organisational level as police staff training presented claims surrounding the benefits of restorative justice as being equal, regardless of whether a Level 1 or 2 process is used, this is despite the lack of empirical evidence in relation to the benefits of Level 1 conferencing (Slothower, Sherman et al. 2015).

Academic research is just beginning to explore the nature of these different 'Levels' of restorative justice and how police officers are using them: previous research has shown that officers are preferring to use Level 1 conferences, and there is a continuum of approaches in operation rather than two distinct models of use (Meadows, Albertson et al. 2012). This study adds to the growing literature by highlighting some of the reasons why this blurring between Level 1 and Level 2 is taking place. Crucially it argues that frontline officers are not necessarily ignoring the benefits of Level 2 conferencing and opting to use Level 1 to save time: rather there is no recognition of a difference in the level of restorativeness offered by either approach. Officers are not opting to use a less restorative option; instead they are merely operating as street-level bureaucrats do (Lipsky, 2010) by using the most familiar options that are the quickest to administer. This distinction is important as it provides hope that officers are not against the use of restorative justice *per se*. They are merely following organisational (and national ACPO policy guidance) that allows for the use of Level 1

instant restorative disposal: a process that places little emphasis on restorativeness and is not reflective of true restorative values. The way in which restorative justice has been packaged to fit within the criminal justice system, to fit within police force policies and to be understood by frontline officers is therefore potentially flawed.

At a practical level this research has demonstrated how the key values of restorative justice can become 'lost in translation' across a police force. There is a need for the principles and values of restorative justice to be provided in a manner that recognises the different interpretations that exist across a force and caters to officer's needs. Translating restorative justice principles and values to all officers through specific training is key to their subsequent understanding; officers who had experienced the most in-depth training had the most nuanced understandings of restorative justice and were able to incorporate these values into their police officer duties. Training may be costly but the benefits of restorative justice are dependent on staff being sufficiently trained to ensure the process adheres to restorative principles (Bonta, Jesseman et al. 2006). Yet police training in general suffers from a lack of time and investment despite officers being unable to have the time to search for information in addition to their day-to-day activities and are unlikely to develop their knowledge of restorative justice 'on the job' (Lipsky 2010). This is reflected in the general understandings of restorative justice that featured both in dialogue and across some areas of organisational policy and the examples of 'restorative justice' put forward by police officers in this study that often did not reflect a fully restorative interaction. While, in practical terms, restorative justice cannot only be applied to 'ideal' situations (Doolin 2007); it needs to be grounded in restorative values and ensure that all officers leave with a firm understanding of restorative principles. By neglecting to provide sufficient training to frontline workers then police forces can only expect to achieve modest results.

The limited understanding of restorative values also manifested itself by the lack of attention towards the role of the community. The research findings highlight how community involvement in restorative justice processes and outcomes did not feature in officer discussions, nor was it referred to in force policy. Whilst these policy documents did indicate a shift in understanding over time with greater recognition towards some of the key values of restorative justice, including mutually agreed resolution and reparation, still the community and general understanding towards the need to build social capital remained neglected areas. This is problematic as the introduction of restorative policing is hyped as being effective in reducing reoffending, yet the reintegration of the offender back into the community constitutes much of the theoretical basis as to why restorative justice may have a positive impact on recidivism rates. Furthermore the lack of understanding in relation to the importance of the community as a key stakeholder meant that despite the investment by the

force in relation to the reimplementation of restorative justice, little attention was paid to involving the community in the process; the community, as well as victims and offenders were ignored throughout the process of implementing restorative justice. This is a disappointing finding as the reimplementation was once-again driven in a top-down fashion.

Whilst understandings of restorative justice were explored as a separate research question in this thesis it is clear that this is not a discrete factor and organisational understandings of restorative justice were cross-cutting to many of the constraints in implementing policy. Fundamentally if officers do not fully understand the principles of restorative justice, then how can they 'do' it? Therefore many of the findings to research questions 2 and 3 are inter-related to many of the issues raised in this section.

## **Research Question 2: Barriers to successful implementation**

Restorative values are fundamentally different from traditional police practices (Alarid and Montemayor, 2012) therefore it is perhaps unsurprising that there are numerous barriers to its implementation: the findings from this study highlight one of the key barriers to officers doing restorative justice is the way in which it is implemented. Despite the plethora of literature available many of the issues raised in this study were typical of other attempts at police reform, including the introduction of community-orientated and problem-orientated policing models (Skogan, 2008, McLeod 2003, Mazzerole *et al* 2014 and Alarid and Montemeyer, 2012).

Firstly, and perhaps most importantly, when implementing policy little attention is paid to the ways in which police culture impacts on the way information is disseminated, accepted, and constructed amongst police officers. The research findings described the internal resistance amongst both frontline and higher ranking officers towards the introduction and use of restorative justice. The failure to empower or offer meaningful involvement in the implementation to frontline officers and middle managers prompted many to engage in resistance strategies. These resistance strategies have been well documented (Sparrow, Moore *et al.* 1992, Skogan 2008, Toch 2008, Mazerolle, Sargeant *et al.* 2014) and provide an indication that it is not necessarily the idea of restorative justice that officers are against but the idea of reform itself. Again, as with problems around understanding it is perhaps the top down nature by which the force introduced restorative justice that contributed to some of these barriers.

However, this is not to say that restorative ways of working do not present a challenge to the typical 'crime-fighter' police culture. This study highlights how the adoption of restorative justice into the youth justice system and the way in which it is marketed as a Level 1

disposal for low-level offending and first-time entrants into the criminal justice system has damaged the way in which it is viewed by some officers, particularly those working in crime and justice commands. It also found that the wider structural issues within the force, including the way typical 'crime-fighting' behaviours and the use of detection rates as a performance measure, both at a national and organizational level creates and exacerbates the issue. Despite a mandate from the top command that it can be used for 'all crimes' this did not translate into practice, often creating confusion between officers who received varying amounts of training and their line managers who were operating towards the aggregated performance achievements of the department, which are mostly measured on a quantitative basis: numbers of successful achievements can be measured more easily than restorative outcomes.

Building on this confusion and mixed messages this study highlights how a lack of concrete details left many officers unable to fully understand and utilise restorative processes. There has been little exploration of the micro elements that impede implementation specifically in relation to restorative policing. The incorporation of restorative justice into the criminal justice system has stimulated theoretical debates. However, officers on the ground are lacking the practical information in relation to how to do restorative justice; for example, how it fits within their pre-existing frameworks such as PACE. This study raises the need to clarify what restorative justice means in practical terms and the need for clear working practices for police officers. The joint thematic criminal justice inspection report 'Facing up to Offending' points to the need for greater consistency of use across the criminal justice system, however, a combined lack of understanding and definition of restorative justice has led to *ad hoc* interpretations and use. Without a statutory basis for the use of restorative justice across criminal justice agencies in England and Wales it is difficult to see how this will be resolved. In the meantime police forces and other criminal justice agencies need to engage with each other to create local agreements and concrete information in relation to the use of restorative justice which needs to be provided for all staff.

As previously mentioned in response to research question 1 a key finding of this study is the lack of recognition towards the community as key stakeholders, with both the implementation and the re-implementation of restorative justice across the police force neglecting the community's role in the process. The limited community involvement that is available is provided through a top down process; as such it is neither empowering nor meaningful. Yet it is the community's involvement that offers the greatest opportunity for transformation (Bazemore and Griffiths 2003). Community involvement is a crucial factor in order to both define what is good practice for restorative policing and to ensure that frontline officers do not slip into routine practices (Lipsky, 2010) thereby ensuring restorative

practices are sustained. As leadership across the police force changes and government policies evolve it is the wider community demands for restorative justice that will ensure it continues (Bazemore and Griffiths 2003, Skogan 2008). Again this raises the concern that if all key stakeholders are not involved in the restorative justice process then attempts at reform will be merely cosmetic (Pranis and Bazemore 2000).

In order for a force to be 'restorative' then it is not just about adopting a process (Bazemore and Griffiths 2003), restorative values need to be embedded across all aspects (McLeod 2003). Yet an important finding within this study was that restorative values were not apparent in the implementation process: frontline officers were given little say and engagement with them was minimal. There was some recognition of the need to involve and empower middle management as was evidenced by the introduction of a steering group for the reimplementation. However, whilst the reimplementation appeared progressive, for example, it included new terms moving towards a 'restorative approach' and attempted to change officers' language around 'victims' and 'offenders' towards 'harmed' and 'harmer' there is a concern that there are merely 'buzz words' (Hunter and Barker 1993) masking what is fundamentally a lack of desire for change across the force (Morris and Farrell 2007). The training provided an example of this: whilst there are considerable benefits for all officers to be trained in restorative justice (and indeed the 'whole force' approach adopted by the force created an opportunity for success) the top-down enforcement towards officers attending training sessions raises some questions. Namely if a key principle of restorative justice is voluntariness, in respect of the victim, the offender and other key stakeholders to attend; should that voluntariness extend to the facilitator also? Would a facilitator acting under duress undermine the process? Or is this encouragement and enforcement necessary; many proponents of restorative justice argue that being involved or witnessing restorative justice in action is the best way to understand its benefits. Yet it stands as a warning that in the desire to implement restorative justice it is imperative not to ignore its key values: organisations should ensure that the principles of restorative justice are at the heart of its implementation strategy.

### **Research Question 3: Opportunities for successful implementation**

This study identifies the importance of leadership and vision in order to start the implementation process. This research very clearly showed that despite restorative justice being an available option for many years since its introduction in Thames Valley in the early 1990s it was not adopted within the force until the arrival of a new member of the executive team over fifteen years later. What is important to understand is that whilst leadership is imperative to start the process, restorative values and processes need to be adopted and

incorporated throughout the organisation in order for them to be sustained. In order to do this then the leaders need to recognise that reform is not self-implementing (Lipsky, 2010) they need to harness the power of middle managers as ‘change agents’ (Toch, 2008) and give consideration to the ways in which frontline officers as street-level bureaucrats operate: it is not just leadership but transformational leadership that is needed (Clamp and Paterson, 2013; McCleod, 2003).

Whilst it was clear from this research that the force studied was yet to become truly restorative it is important not to undermine the culture shift that occurred across the organisation from the first implementation. The implementation of restorative justice in any bureaucratic organisation is likely to be superficial: the point is that reform must begin somewhere (Bazemore and Griffiths 2003, McLeod 2003). The very process of implementing restorative approaches and the initial attempts at restorative practices helped develop the way the force as a whole, and many of the officers who had experienced restorative justice training and/or been exposed to restorative practices thought about crime and about victims of crime. The two policy documents analysed in this study showed a substantial change over a relatively short space of time. Whilst some attempts at police reform may fail in that they do not achieve their wider aims they may succeed in bringing about small cultural changes. Having an ambitious vision is not sufficient and a lack of implementation may imply ‘loose coupling’ (Bazemore and Griffiths 2003), however, this vision still starts the process of reform. Over time the use of restorative justice may not be noticeable in crime rates but it may have been adapted and used in other forms across the organisation (Weick 1976). In this police force whilst the first attempt at implementing restorative justice was not considered particularly successful the initial implementation, delivered alongside wider reform programmes, including POP, meant that a cultural change did begin to occur across the police force; albeit in some areas of the organisation more than others.

### **Contribution to knowledge**

This research had broadened the understanding of restorative justice and policing in three ways:

This research has contributed a model to show the ‘continuum of understanding’ of restorative justice across a police force, this is useful at a theoretical and practical level. Theoretically it has highlighted the impact of police culture on the way restorative justice is understood and defined by those who are implementing policy and how it is translated through the ranks to those tasked with ‘doing it’. The research found that it was not different understandings *per se*, rather that police officers in different ranks are more orientated

towards different aspects of restorative justice: for frontline workers the practicalities of 'doing' restorative justice were more important than the broader philosophical issues.

It has highlighted the lack of differentiation police officers make between Level 1 and Level 2 conferencing. There appears to be no consideration given to the level of restorativeness offered by the different processes: both are seen as 'restorative justice'. This suggests that the high level of use of Level 1 disposals is not only due to time-saving: officers do not see the additional benefits of doing Level 2 conferencing because they do not differentiate between Level 1 and 2. Furthermore there is confusion that 'restorative disposals' are seen as a standalone disposal and 'restorative justice' is a conferencing process that takes place in addition to a further criminal justice sanction. Overall it shows that the attempt to create simplified 'Levels' of restorative justice was instead rather confusing. Most importantly many of the key principles and values of restorative justice have been lost through this categorisation.

It has shown that whilst there are some cultural barriers, particularly in relation to officers in 'crime fighting' roles, in general police officers are not necessarily against the use of restorative justice in principle. Whilst many did exercise resistance strategies: the strategies employed were the same as those exercised against other top-down reforms (Skogan 2008). In order for a force to become truly restorative it needs to embrace the very principles that it is trying to implement: it needs to empower its staff and the wider public and involve and empower them in the implementation process.

Furthermore by researching middle managers and frontline officers' experiences of the implementation process, and thereby considering some of the micro elements and experiences that impact on policy implementation it has raised areas that need more careful consideration in relation to the everyday practical, concrete, information that frontline officers need to be given if they are expected to engage in restorative justice and use it in their day-to-day activities. Reform is not instant, it is a slow-moving process and there is no 'quick fix'; however, even failed policy can create change within an organisation which can allow programmes to succeed and flourish in the future.

### **Implications for practice**

The key findings of this research are relevant beyond this case study and are of benefit to other organisations seeking to implement restorative justice or to roll out new policy initiatives. The findings serve to highlight how easily mixed messages can arise, and the devastating impact they have on policy implementation. It is therefore imperative to have not just a clear vision but that accompanying processes detail *how* to 'do' it. The findings demonstrate how different hierarchies across an organisation are orientated towards different



elements of policy. The ‘continuum of understanding’ that exists across hierarchical organisations needs to be recognised and core messages need to consider how to attune their core messages to worker’s orientations.

It is clear that further lessons need to be taken from previous attempts at police reform. Initial implementation strategies often neglect to acknowledge cultural barriers and police officer resistance. Good working practices, including the use of a steering group, were subsequently developed within this force in order to address this. Of interest to restorative justice practitioners is that contrary to previous recommendations that steering groups should be based on those who are passionate advocates of restorative practice (Lambert, Johnstone et al. 2011) the model used by this force implies that whilst this is useful it is also necessary for officers to have credibility within the force in order to ‘sell’ the message to others (Gladwell 2000).

This study has identified the organisational and individual understandings of restorative justice. With a renewed focus on the use of restorative justice in the criminal justice system in England and Wales the Government’s current action plan is focused on providing equal access to restorative justice for all victims at all stages of the criminal justice system, to raise awareness and increase understanding of restorative justice and to ensure that a good quality of restorative justice is being delivered (Ministry of Justice 2014). The plan aims to address current gaps in provision; despite its first introduction into the criminal justice system over thirty years ago the development and delivery of restorative justice has failed to materialise (O’Mahony 2012). This study demonstrates how a ‘continuum of understanding’ can exist across a police force. It is hoped that the way in which officer’s orientation impacts on their understanding can be of practical benefit to the way future policies, training, and other information is provided to frontline officers.

The final implication for practice relates to the question that a fundamental aim of restorative policing is to bring about systemic reform. For that reason it is worth considering how the ‘success’ of an initial implementation is measured. For this force the initial implementation was deemed ‘unsuccessful’, however, it did appear to bring about a small but significant culture shift that created new ways of working and led to a less bureaucratic way of working. This in turn has created more fertile ground for re-implementation of restorative practices.

### **Gaps and future research**

This research was one case study, whilst the in-depth nature provided the opportunity to explore a range of issues in-depth there are clear limitations due to the sole focus on one police force. Whilst it is expensive and time-consuming it is worth considering the need to

do more long-term studies on police forces introducing restorative justice in order to account for implementation dips and the length of time needed for reform. This force showed that whilst originally considered successful the use of restorative justice following its first implementation was not sustained over a long period of time; new policies were subsequently developed and the implementation process often may involve numerous attempts under various guises.

It would be useful to return to the force to assess the impact of the re-launch, in particularly the benefits of ‘whole force’ training. Questions remain as to whether understandings of restorative justice were indeed developed through the training and new force procedure documents, and whether the adoption of a whole force implementation impacted on the way officers working in crime and justice command conceptualised restorative justice.

Furthermore, given one of the main barriers for officers when doing restorative justice was its classification as a non-sanctioned detection, future research is recommended to assess if the change in crime-recording to ‘positive outcomes’ has had an impact.

Future research is also recommended in relation to the ways in which the three different Levels of restorative justice are used by police forces, particularly Level 1 instant disposals, relate to restorative principles. There is growing evidence that they have little restorative value (O'Mahony 2012, Parker 2013) and are not based on sound empirical evidence (Slothower, Sherman et al. 2015). Further empirical research is needed to explore this further and to consider how officers, across all ranks and roles, conceptualise the different Levels.

### **Concluding thoughts**

This research has built on previous research exploring the implementation of restorative justice across a police force and provided new knowledge for practice and academia, while also opening up new questions for future enquiry. Being an ‘insider/outsider’ researcher has brought with it some challenges, but ultimately it has been a satisfying and worthwhile journey. It was encouraging to have followed one police force’s journey in its quest to deliver restorative justice and witnessed its attempt to learn from previous mistakes and continually problem-solve in order to bring about organisational reform. It is hoped that this field will continue to develop and strengthen and become a real alternative for victims and offenders than the current criminal justice and penal system and that the role of the community will be developed and incorporated into future plans. Whilst this research was a single case study it is hoped that the lessons learnt through this force can help others on their quest to reform criminal justice systems and processes.

## Appendix A

Interview Guide (Chief Constable and Police and Crime Commissioner)

# Interview Questions:

- 1. What first interested you in the concept of restorative justice?**
  - How do you define RJ
  - Why think RJ is important
  - Why think the concept of RJ has proved to be so popular
- 2. Can you tell me what restorative justice looked like when you first arrived as assistant chief constable?**
- 3. How would you describe the demand for RJ in this area at the time?**
  - Was there much interest in implementing RJ?
  - Exec
  - Staff/ officers
  - Partner agencies
  - Public
- 4. How prominent was RJ on the agenda at the time?**
  - What other issues were on the agenda at the time?
  - Did these influence the implementation of RJ?
- 5. What factors do you think affected the implementation of RJ?**
  - Practical issues
  - Policy (Local/National/International)
  - Budget
  - Mood/opinion: internal, external, national, public
- 6. Have your ideas around RJ had to be adapted or refined in any way in order for policies to be successful implemented?**
- 7. How has RJ been used in the force so far?**
  - Deep end/Shallow end, why
- 8. This force is now launching a 100 day RJ plan, why now?**
  - What opportunities?
  - What doing differently?
- 9. What do you think the biggest obstacle to implementing RJ is?**
- 10. Is there anything else you would like to say?**

## **Appendix B**

Interview Guide (all steering group members)

# Interview Questions:

**1. This force has adopted a restorative approach, can you tell me when it started to be implemented and what has happened so far?**

**2. What crimes have restorative approaches been used for?**

Probe: Why these crimes? Why not others?

**3. How are restorative approaches being implemented?**

Probe: why an RJ steering group, who was given responsibility for organising? How were staff trained? What information was disseminated to staff? How was it disseminated?

**4. What has been your involvement in the implementation process?**

**5. Have you encountered any barriers in the implementation process so far?**

Probe – were there any issues with pre-existing policies? Were there any inconsistencies? Did restorative approaches need to be adapted to fit with previous frameworks? Were there any delays/problems, how were these overcome

**6. What opportunities have there been which have aided the implementation?**

**7. What do you consider to be the benefits of adopting a RJ approach?**

**8. In your opinion how do you think RJ approaches have been received by staff?**

**9. Is there anything else you would like to say about how RJ policy has been implemented by this force?**

## **Appendix C**

Focus Group Guide

# Focus Group Questions

**1. Tell me your name, your role and something you enjoying doing in your free time.**

**2. When you hear the term ‘restorative justice’ what comes to mind?**

**3. Can you think back to when you first heard ‘restorative justice’ being discussed in this force? What do you remember being told?**

Probes: where did the message come from, how was the idea of restorative justice ‘sold’ to staff, what were your first thoughts about it – what did you think would be positive, what did you think would be negative?

**5. Have you received any information about restorative justice?**

Probes: what were you given; how useful did you find it?

**4. Have you had any training in delivering restorative justice?**

Probes: who were you trained by, how long was the training, how useful did you find the training.

**5. Think about a recent experience you’ve had where you considered using RJ- can you briefly describe what the situation was and why RJ was either chosen or discarded as an option.**

Probe: How did you find using RJ as a sentencing option? What were positives? Were there any negatives? Were there any unexpected consequences? What other sentencing option did you use/would you have used?

**6. Have you encountered any barriers to doing restorative justice?**

These could be practical – from finding room, finding the time, how to record the outcome. Or perhaps related to attitudes – victim, offender, managers, and colleagues. If haven’t done RJ why not, what stopped it?

**8. As a group can you write down/tell me what the most important things are for you when the force is implementing a new policy?**

– Group to rank OR What is the most important to you personally?

**9. My job is to understand how restorative justice policies have been implemented in this force. Is there anything we should have mentioned today that we didn’t?**

## Appendix D

### Restorative Approach Training Checklist

# Restorative Approaches Training Checklist

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- What is a restorative approach (RA)?
- What are the benefits of doing a RA?
- What does the victim get out of it? <sup>HARMED</sup>
- What does the offender get out of it?
- In which circumstances can I use it?
- Can I use it for incidents? Do you have to begin criminal processes in order to do RA?
- Can it be used for all crimes?
- Does it take more time to do RA?
- Who should I offer RA to?
- What if the harmer is a 'repeat offender'?
- What if it is a serious offence?
- Can it be used for children under the age of criminal responsibility?
- How does it get recorded in my pocket notebook?
- How do I record it on Sleuth?
- Does taking part in a RA show on a CRB check?
- What if the harmer doesn't want to take part?
- What if the harmed doesn't want to take part?
- What if it is a group of harmers and not all of them want to take part in RA?
- What if numerous people are harmed and not all of them want to take part in RA?
- What if the harmer doesn't complete all the reparation/pay the agreed fine?
- Will doing RA interfere with the criminal investigation – are CPS on board?
- Does it count as a sanctioned detection?
- What does a 'positive outcome' mean for the force detection rates?
- Who can I ask for advice?

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