Restorative Justice in Scotland: at the crossroads?

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SCOTLAND

- Separate jurisdiction
- Relatively small – advantage and disadvantage (personalities count)
- Can effect change – VWA 2013
Provider agencies

- CJSW (Criminal Justice Social Work)
- Sacro (Safeguarding Communities and Reducing Offending)/VSS (Victim Support Scotland); voluntary sector organisations
- COPFS (Crown Office and Procurator Fiscal Service) Agreements i.e. between COPFS and Sacro re diversion for 16-18 year olds
- Police
- Prison
Processes
(see Scottish Government for descriptions)

• RJ Conferences; RJ FG Conferences; Face to face meetings

• Others - Shuttle dialogue; Victim awareness; Restorative conversations etc., etc.,.

• Attempts at formulating guidance and guidelines for processes to provide coherence (Brookes, Sacro, Restorative Justice Training Service, Scottish Government – Best Practice Guidance for Practitioners (2008) etc.,.)

• See VW (Scotland) A 2013 (Mary)

• UHI – Postgraduate Qualification - Restorative Justice
Attempts at coordinated approaches - Groupings and initiatives

- RPS – practitioner focused in its development
- SCCJR – RJ Research Working Group (research focused)
- Scottish Government - 2008 “Progressing thinking about RJ . . .” event
- CJSW Development Centre champions group – ‘Champion for RJ mooted’
- Sacro + VSS joint initiative - Restorative Justice Joint Action Project (joint working possible from 2008 event but no evidence of implementation or taking this forward)
- BUT lack of effective coordination and understanding (CJS agencies/voluntary sector); lack of commitment by SG
Defining & Understanding Restorative Justice

View A.

RP

RJ

View B.

RJ = RP

Identical Processes
RJ and RP - application

• Some practitioners avoiding using the term restorative justice

• Focusing instead on the term restorative practice with a scale – informal to formal

• Problems with defining suggests Scotland not sure what ‘rj’ or ‘rp’ is and what it means in Scotland

• If there are debates over terms how do politicians, civil servants present it in legislative form and give effect, for example, to the EU Directive??

• BUT skills and values – there are commonalities (see surveys later - David)
In Practice

Many examples, focus on a few (concerns/issues/difficulties):

• Police Restorative Warnings - ? restorative

• Children’s Hearings System and RJ - ? use

• TASC (Kearney, Kirkwood) - ? rollout but new initiative has started (Kearney/Whyte)

• Restorative Justice Toolkit for cases of Historical Institutional Abuse (linked to TTBH Forum) – Johnstone/Brookes/Sacro (? confidentiality and privacy issues; person responsible not there but rather representative of the institution)

• BUT Scotland willing to try….

• Other examples……………………
Other examples

• Sacro main providers
  – Focus has tended to be
    – Youth Justice
    – Young offenders

• Prison – Cornton Vale (women) and Polmont YOI
  – Represents ad-hoc approaches – i.e. bullying and issues between prisoners

• Schools
  – ‘justice’ – preference for ‘approaches’ or ‘practice’
Research

• Some small scale evaluations have been undertaken (Dutton/Whyte (2006, 2008); Curran, MacQeeen and Whyte (2007) Sacro with Viewpoint (2008); Kirkwood (2009, 2010))

• Sacro & other initiatives - bespoke practices evaluated

• No large scale evaluation has been undertaken (akin to Sherman/Strang or Shapland et al) – although some discussion in 2008

• Attempts to assess understanding, awareness and use of RJ nationally and across different agencies to assess any common understanding – two surveys undertaken (David)
A tale of two surveys

- 2 separate but thematically linked online surveys:
  - Joint Survey of SCCJR RJ Research Working Group, RJ Champions Group and Sacro informed by RPS and SCCJR research [June and July 2010].
  - CYCJ Survey drawing on learning from 2010 and opportunities post-February 2014 conference [February to April 2014).

- Why conduct a restorative justice survey?
  - To develop a more nuanced understanding in relation to RJ/RP practice, skills and knowledge across Scotland.
Focus of surveys

What did the surveys seek to establish?

- Knowledge and involvement in RJ/RP.
- Understanding of RJ/RP.
- Different practices.
- Views on outcomes of RJ/RP.
- What practices were within their understanding of the remit of RJ.
- Achievable outcomes.
- Supporting of different RJ approaches.
Strengths and weakness

Strengths:

• Reasonable sample sizes (2010 = 89/2014 = 82)
• Good geographical spread of respondents.
• Good coverage of voluntary sector practice.
• Detailed insights into the youth justice sector and the Scottish Prison Service (SPS).
• Keen interest and participation of academic community

Weaknesses:

• Limited reach into the adult criminal justice social work sector.
• Limited participation from Scottish Children’s Reporter Administration (SCRA), Crown Office and Procurator Fiscal Service (COPFS) and/or Judiciary.
• Purposive sampling rather than more robust research method.
According to one of the respondents to the 2010 survey:

“The term actually describes a philosophy, but tends to refer in Scotland to services and therefore means a range of options that deal with the harm caused by offending and anti social behaviour. Allowing all those involved and affected an opportunity to address the harm and have their needs met.”
Experience

2010
• 75% of respondents used RJ within their work with 62% using it routinely.

2014
• 47% of respondents had direct experience of facilitating face-to-face RJ conferences while 56% had experience of other forms of RJ practice (e.g. shuttle diplomacy, supporting letter writing, supporting reparation tasks etc.)
Timing and breadth of RJ

2010 and 2014

- RJ approaches usefully adopted at any stage of the conventional criminal justice process.
  - Alternative to prosecution.
  - Structured Deferred Sentence.
  - Court order (Community Payback Order)
  - During Prison Sentence.
  - When on License.
-Respondents generally more comfortable with RJ in response to lower tariff offences.
-Respondents open to use of RJ approaches in response to more serious offences with appropriate safeguards.
RJ outcomes

The 2010 respondents viewed the following outcomes as significant aims of RJ:

- For offenders to understand and accept responsibility for their behaviour (91%).
- For offenders to make amends in a meaningful way (83%).
- For both the offender and victim to have a more meaningful involvement in the Criminal Justice System (73%).
- For the offender to be helped to reintegrate back into society (71%).
- For the offender to be helped to desist from offending (70%).
- For the victim and offender to be helped (69%).
RJ and serious crime

2010

- 13% of respondents would definitely support use of RJ approaches in response to serious crime.
- 56% may support use of RJ approaches in response to serious crime.

2014

- 65% of respondents supported the development of RJ approaches in response to serious crime.
- For those expressing doubts in relation to RJ in response to serious crime these tended to stem from:
  - Concerns about risk assessment.
  - Concerns about the intensity of pre-RJ preparation.
  - Concerns about the skills/expertise of facilitators.
What next?

- RJ register
- Mapping
- Training
- Leadership
- Pilot projects
Curious failure to implement adult RJ?

- funding
- seen by some Local Authorities as an ‘add on’ and ‘extra expense’
- culture of punitiveness?
- capacity / training challenges
Curious failure to implement adult RJ?

- reluctance of some RJ providers to engage with victim services
- ‘Victim services’ - RJ not a priority
- competing stakeholders
- complacent belief in merits of Scottish practices
- no crisis . . . ?
Scotland: pathway to innovation?

2013 - 14:

- formation of RJ Forum
- winding up of Restorative Practices Scotland
- reflections arising from RISC (Restoration in Serious Crime) - Whyte and Kearney’s parallel session
- RJ in serious crime conference
European Directive (2012) establishing minimum standards, support and protection of victims

Article 12: Right to safeguards in the context of rj services

2. Member states shall facilitate the referral of cases, as appropriate to rj services, including through the establishment of procedures or guidelines on the conditions for such referral.
Scotland: pathway to innovation?

Victims and Witnesses Bill:

- RJ?!
- Stage 2 - autumn 2013
- RJ Forum intervention to establish *entitlement of victim* to request access to restorative practice
- Stage 3 - concession
2C Restorative justice

(1) The Scottish Ministers may issue guidance about

(a) the referral of a person who is, or appears to be, a victim in relation to an offence and a person who has, or is alleged to have, committed the offence to restorative justice services, and

(b) the provision of restorative justice services to those persons.
Scotland: pathway to innovation?

RJ Forum strategy

- articulating and prioritising victims’ benefits
- communication (#RJinScotland)
- collaboration
- mapping
- capacity building
Are you for it?

| Yes |
| No |

Perhaps yes, perhaps no

Who is making this enquiry?

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<td>Who’s askin’?</td>
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