

APPENDIX 1

Restorative Justice – A Proposal for Cambridge

1. Introduction – what is restorative justice?

1.1 “Restorative justice” (or RJ) is the name usually given to an approach to criminal justice that provides a person who has suffered harm with an opportunity to tell the wrongdoer about the damaging effects of their actions. In some cases the wronged person can get to have a say in what the perpetrator can do to make amends. As the Home Office paper *Restorative Justice: An overview* puts it:

‘Restorative justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future’.

- 1.2 While there are a number of variations, and while the dividing lines are not always sharply drawn, RJ will tend to fall into one of three categories corresponding to an ascending level of seriousness.
- 1.3 At the lowest level of seriousness, “Street RJ” deals with instances of minor criminal or anti-social misbehaviour that would normally be settled out of court or which may not otherwise have resulted in any formal action at all. Street RJ is usually administered on the spot by a police officer or a PCSO and is not the subject of this proposal.
- 1.4 At the highest level of offence, where an offender is convicted of a crime and may even be given a custodial sentence, RJ has been used at each stage of the criminal process (i.e. pre-sentence, during sentence and pre-release) as a means to give the victim a bigger say and to help with the rehabilitation of both parties. RJ at this level of seriousness is normally dealt with by the probation service, the courts and the police and, again, is not the subject of this proposal.
- 1.5 The level of RJ that this proposal is concerned with falls within the middle range of seriousness, that is:
- crime or anti-social behaviour (ASB) that is not serious enough to prosecute or be subject to a more formal out of court disposal; and
 - low level criminal offences that have or will receive an out of court disposal but which restorative justice might complement by getting agreement to some additional reparative activity by the offender.
- 1.6 At this middle level, RJ has been found to be especially useful when used to deal with young people presenting for the first time in the criminal justice system for less serious offences, although this proposal relates to both youth and adult offenders.
- 1.7 This proposed RJ scheme for Cambridge will additionally cover nuisance neighbours and no-fault neighbour disputes.
- 1.8 RJ at this middling offence level will compliment work at the higher and lower levels already being done by the police and others, and would seem best suited to the kind of partnership approach between local

authorities, police and housing authorities that is presently operating in South Somerset, Sheffield and Norfolk. This model is currently the focus of government promotion and study¹.

2. Why Restorative Justice?

- 2.1 Research carried out in 2010 showed that less than 1 percent of victims of crime were offered RJ. However, there is good evidence that RJ can make a positive difference for the victim, the offender and the taxpayer.
- 2.2 The most important research that has been carried out in this country is a 7 year randomised control trial of RJ which was commissioned by the government and conducted by the University of Sheffield². Although this study concerns a higher level of offence (serious offences committed by adults) than the level that concerns this proposal, the results show that RJ can achieve good outcomes, as follows:
- 85 percent of victims in the study were very or quite satisfied with their experience of RJ. Victims valued the opportunity to ask questions about the offence; to talk about the effects of the offence on themselves and others close to them, and they welcomed the opportunity to work with the offender to help stop them offending again.
 - Where victims and offenders agreed to meet face-to-face for RJ “conferencing”, as it is known, 98 percent ended with the participants agreeing an outcome which was focused on what the offender would do next to repair the harm, address their problems and re-orientate their life away from crime.
 - Re-offending within two years of an offence was reduced where RJ was used (relative to a non-RJ control group). (The sample was too small to be statistically significant but a Home Office re-evaluation of the evidence thought that the reduction in re-offending was 14 percent relative to the control).
- 2.3 A quite separate evaluation of how community resolution panels are working in Sheffield was carried out by the lead agency, Sheffield City Council, over the period May 2009 to October 2010. It reported that :
- Two-thirds of harmed persons were very satisfied with how the system handled their case and a further third were satisfied. No-one said they were dissatisfied. 96 percent of harmed persons said they would participate in restorative justice again.
 - 97 percent of wrongdoers were satisfied or very satisfied with how the case was handled.
 - The re-offending rate for young people taking part in RJ was 5.2 percent against the national re-offending rate for other forms of disposal of 39.2 percent.
 - The process of dealing with minor and first time offences was significantly speeded up.

¹ *Testing Neighbourhood Resolution Panels*, Ministry of Justice, July 2011

² Shapland, J., Robinson, G. and Sorsby, A. (2011) *Restorative justice in practice*. London: Routledge

- Police and housing officer time was freed for more pressing business.

3. The proposal for Cambridge

It is proposed that:

- 3.1 A restorative justice scheme for middle level crime and ASB (see 1.5 above and the table at 4.10 below) be introduced in Cambridge during 2012-13.
- 3.2 That the scheme be based on the type of scheme presently operating in the areas mentioned in paragraph 1.8. Section 4 (below) gives the detail of the proposed scheme.

4. The proposed scheme

At the heart of the proposed RJ scheme for Cambridge – and the thing that makes this kind of RJ different from the other forms referred to at 1.3 and 1.4 above - is the concept of the “neighbourhood resolution panel”.

A neighbourhood resolution panel” (NRP) is the preferred name for what has formerly been known as a “neighbourhood justice panel”. (The change of name is recommended by the Ministry of Justice because it is felt that the word “justice” may imply a quasi judicial or decision making function which these bodies do not have. A neighbourhood resolution panel is not a decision-making forum: it is not the role of the panel to decide guilt, nor is there a ‘decision maker’ or ‘judge’ deciding the appropriate penalty).

An NRP will be composed of the offender (or offenders) and the victim (or victims); parents (if the offender or victim is a young person); a member of the referring authority (for example, the police or the housing agency); a member of the youth offending team (if appropriate); and any supporters of the victim, such as a partner, a relative or a neighbour. The panel will be facilitated by a community volunteer. It will be the job of the panel – including the victim and offender - to reach consensus about the outcome.

A neighbourhood resolution panel co-ordinator will be recruited and it is intended that they will begin work early in the new financial year. An essential first task for the post-holder will be to consult with interested parties. In this regard, it should be noted that this proposal, as it stands, is an outline. Such consultation as has taken place to date has been to gain essential “in-principle” agreement from agencies (for example the police) without whose support the scheme would be unlikely to happen. . The co-ordinator will arrange further, detailed consultation with all the parties likely to be affected, including those services within the Council that may have an interest in the development of, and possible participation in, the proposed restorative justice scheme. When this work is finalised it will be brought back to the Community Services Scrutiny Committee for consideration and endorsement.

It will also be an essential first task for the co-ordinator to go on to recruit, and arrange the training of, the volunteer community facilitators. A bid for free training has been made to Restorative Solutions, following

promotion of this opportunity by the Parliamentary Under-Secretary of State for Justice.

Community volunteers may be recruited through a number of avenues such as Cambridge and District Volunteer Centre, existing residents' groups, through advertising on council and police websites and possibly by directly approaching the law faculty at the city's two universities. (Sheffield reports that high calibre volunteers have been recruited from its universities). Successful volunteers would be trained in restorative justice and facilitating techniques.

In the Sheffield scheme it was found that there were positive benefits to be achieved when volunteers facilitated in cases that were connected to the neighbourhood in which they live. This was largely due to the extra weight of accountability to the local community that this placed on wrongdoers and their families (especially parents in the case of young offenders). There were no reported drawbacks to this approach.

Kinds of cases eligible for the scheme

As previously mentioned, referrals to NRPs may be made by the police and, for neighbour nuisance and neighbour disputes, by the council's housing arm (City Homes); by the Council's anti-social behaviour (ASB) team, by other services within the Council as thought appropriate following consultation, and by housing associations. For housing cases consideration might also be given to extending the scheme to private sector tenants and owner occupiers, possibly charging a fee to commercial users like letting agents. Some success has been reported by Sheffield and others in the use of RJ in schools and this, too, will be explored as the scheme progresses.

Referrals from the police will be made at the sole discretion of the police, consulting with other agencies, if any, to the extent the police feel is appropriate. At present Cambridgeshire Constabulary believes that the range of offences to which RJ could be applied would be those where a gravity score of two or more would apply, excluding those that involves drugs, weapons or a sexual motivation. (Some information about gravity scores can be found [here](#)). The kinds of criteria applied when making the decision to refer could include whether or not this is a first offence, the impact on the community, and whether the victim would benefit from the process.

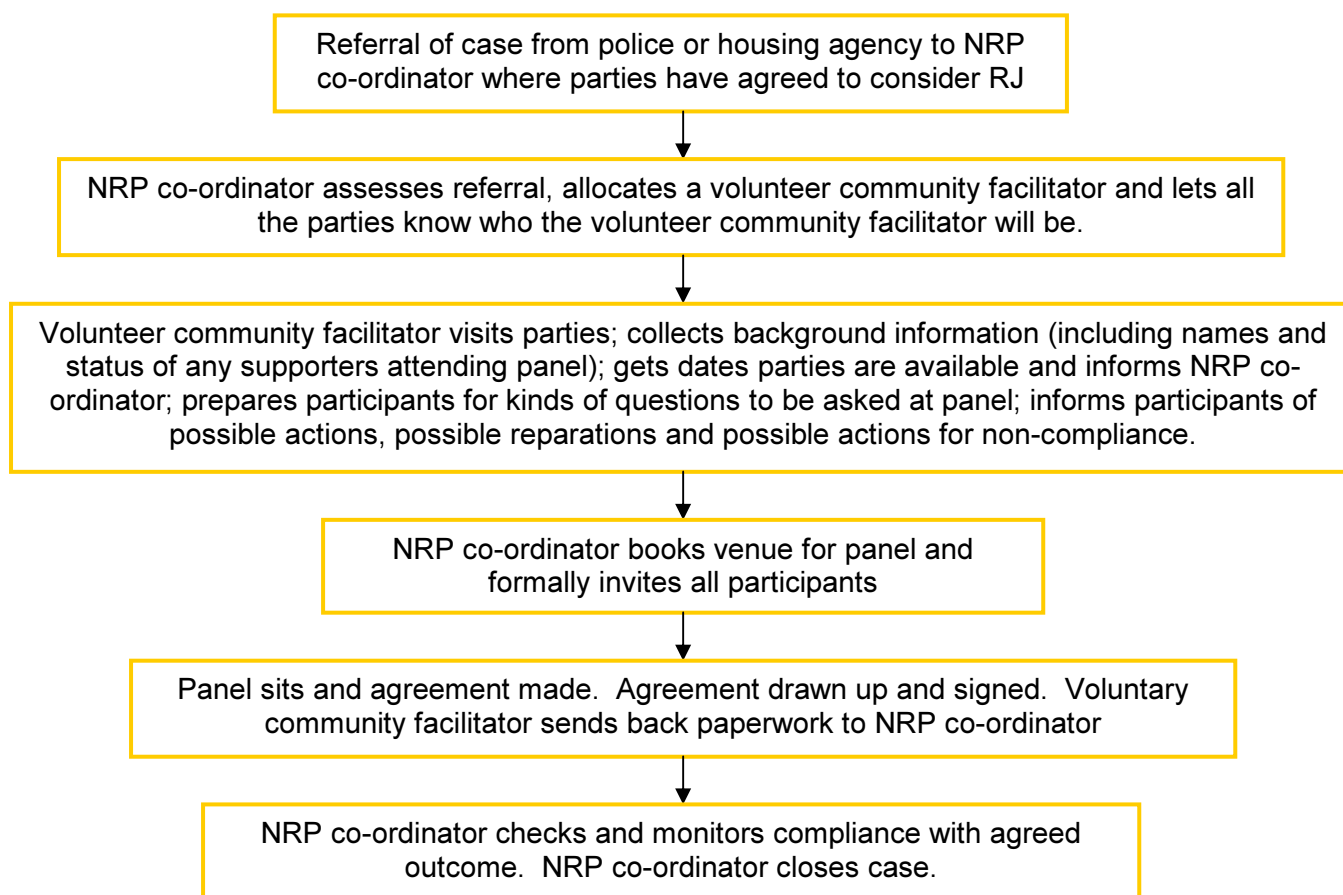
The option to refer a case to an NRP will sit alongside existing powers for police to use their discretion in applying out-of-court disposals. As with referrals from housing authorities, the police will only refer a case where both victim and witness have indicated a willingness to meet at a panel. (This willingness will, of course, be tested again by the co-ordinator as part of the process of arranging the panel meeting, and no meeting will ever take place without the express consent of both parties).

The categories of cases which might be referred to a panel are listed in the following table taken from the document *Testing Community Resolution Panels*.

Type	Within scope	Out of scope
Criminal or anti-	Criminal or anti-social	Any incidents of misbehaviour or

Type	Within scope	Out of scope
social misbehaviour	misbehaviour that is not serious enough to merit more formal action (otherwise would not have received any outcome), but which might be referred to the panel because the community have identified this type of behaviour as having a disproportionately adverse impact on local residents	offence where the offender does not admit responsibility or the victim does not agree
Criminal Offences	Summary only offences that have or will receive a formal out-of-court disposal (for example minor criminal damage or public disorder) but which the work of the panel could complement by agreeing for additional reparative activity to be undertaken by the offender	Offences against the person (including hate crime and domestic violence related offences) such as common assault and dishonesty offences, either way or indictable only offences. Any offence where the offender does not admit responsibility or the victim does not agree
Conditions attached to cautions administered by the police or the CPS	Where a conditional caution is to be administered, the panel could help the police or CPS to identify suitable conditions to be attached to the caution. The final decision on the conditions that an offender is invited to accept will be for the police and CPS.	Any offences for which the victim does not agree to participate.
Non criminal	Nuisance neighbour offences and other housing disputes .	Disputes where any participants may be at risk of harm. Panels cannot be used if the parties involved do not consent.
Patterns of behaviour not attached to a particular incident.	Through a mediation approach, individuals or groups involved in a pattern of behaviour that may not constitute an actual offence, but which has been identified by the community as an issue they would like dealt with	Panels cannot be used if the individuals involved do not consent.

The process (This is a simplified version of the model presently being used in the pilot areas. It may be varied locally). In Sheffield the target time from referral to completion is six weeks.



Outcomes

The outcome of an NRP panel will be agreed by all parties. It will be important that the panel members and facilitator alike understand that it is not the role of the facilitator to decide.

The outcome will be an informal, voluntary written agreement signed by all the parties. In cases referred by the police it will be for the police to decide whether to record this as no further action taken, or that a restorative outcome has been reached. If the parties cannot agree on an acceptable outcome, the original referring agency will decide what further action is needed.

The types of outcome will be determined by the type and seriousness of the offence and the views of the victim. Possible kinds of outcome might include the offender writing a letter of apology; making some kind of reparation to the victim or community; making a financial reparation to repair criminal damage, or attending some kind of service intended to challenge and change problem behaviour.

A panel will not itself have the power to add to an agreement any condition that might come into force if the agreement is breached. A panel might suggest to the police what action might be taken in these circumstances but it will be for the police to decide what to do. Where the police and CPS

are considering offering a conditional caution the panel could agree suitable proposed conditions which could then be passed to the police or CPS for them to consider.

Compliance with the agreement will be monitored by the panel and the NRP co-ordinator and any non-compliance reported back to the referring agency for them to decide whether further action is required (for example proceeding to charge). Monitoring could include reconvening the panel to check on progress with the offender.

In “no fault” neighbour disputes, the outcome is likely to be an agreement that each party will act, or cease to act, in a particular fashion.

What happens next

	Action	Date
1.	Council, police and other criminal justice system partners agree broad outline of scheme	Jan – Feb 2012
2.	Consultation with members, resident groups and other parties (e.g. Victim Support; magistrates; youth offending service; probation service)	Feb – March 2012
3.	Monitoring group established to oversee and evaluate the project in its early stages.	Feb – March 2012
4.	Co-ordinator job description finalised and recruitment undertaken	March 2012
5.	Co-ordinator in post	April – May 2012
6.	Co-ordinator undertakes consultation with parties, including detailed consultation with those services within the Council that may have an interest in the development of, and possible participation in, the proposed restorative justice scheme	
6.	Co-ordinator finalises Cambridge RJ process and produces all associated paperwork.	June 2012
7.	Scheme publicised (to include generating interest in volunteering to become a community facilitator)	June 2012
7.	Process started to recruit and train community facilitators	June – July 2012
8.	First cases referred to panel	July 2012 onward