

Restorative Justice: Strategies for Change (RJS4C) Briefing for the Criminal Justice Strategic Committee

19/05/2021

Working Context

This paper aims to brief the Criminal Justice Strategic Committee on four options for the development of restorative justice services in Ireland, and seeks approval for RJS4C to support the Department of Justice to conduct a consultation with stakeholders, built around these options. RJS4C is a partnership of justice policymakers and practitioners, academics and civil society groups in ten European countries, which aims to implement the Council of Europe's [Recommendation](#) (2018) concerning restorative justice in criminal matters. In Ireland, a Stakeholder Group of 550+ persons from across the criminal justice sector supports four Core Members: Dr. Ian Marder (Maynooth University), Ursula Fernée (Probation Service), Dr. Kieran O'Dwyer (Trainer and Facilitator) and Tim Chapman (European Forum for Restorative Justice). Following extensive consultation with its Stakeholder Group, RJS4C Ireland published a [national strategy](#) in 2019 and has since organised several workshops and conferences on developing restorative justice in Ireland.

In response to the Programme for Government's commitment to **“work with all criminal justice agencies to build capacity to deliver restorative justice, safely and effectively”** Criminal Justice Policy invited RJS4C to contribute their expertise, knowledge, experience and network in delivering this commitment, as set out in the Justice Plan 2021, Actions 158-162:

- Map the current state of play of restorative justice (Q1)
- Activate a restorative justice website (Q1)
- Develop options for an appropriate mechanism and process to create awareness and availability of restorative justice at all stages of the criminal justice system with consistency of service ensuring quality in training and practice (Q3)
- Consult with stakeholders on options and finalise a policy paper on the most appropriate choice (Q3)
- Publish policy proposals (Q4)

On 29/1/2021, with funding from the Department of Justice, RJS4C Ireland launched restorativejustice.ie, on which it published its findings from research to map the use of restorative justice (RJ) in criminal justice in Ireland, over 35 case studies of RJ and restorative practice in Ireland, and other resources. This briefing focuses on Actions 160-161, considering options that build on recent policy and practice developments to create availability and awareness of RJ at all stages of the criminal justice process.

Policy Context

The Justice [Action Plan](#) 2021 includes RJ among its 'nine strategic objectives to be prioritised over the next three years', under its goal of community safety, reducing reoffending, supporting victims and responding to gender-based violence (p.28). Commitments to making RJ widely available are also included in:

- the 2020 paper [Supporting a Victim's Journey](#) recommends establishing a new multi-agency group to scope requirements for an 'integrated, consistent, visible and high quality Restorative Justice service for vulnerable victims who wish to pursue that pathway' (p.64);
- the 2021-27 [Youth Justice Strategy](#) references RJ in several places, including to support (adult and child) victims of youth offending and enhance diversionary options from and during court;
- the [Victims Charter](#) (revised 2020) outlines victims' entitlements to restorative justice in policing, probation and forensic mental health contexts; and,
- the [2019-2021 Action Plan](#) for the Joint Management of Offenders commits to developing joint arrangements regarding RJ services by mid-2021 (p.7).

Restorative Justice in Ireland

The Criminal Justice (Victims of Crime) Act 2017 (s.2) describes restorative justice as any scheme 'which, with the consent of each of them, a victim and an offender or alleged offender engage with each other to resolve, with the assistance of an impartial third party, matters arising from the offence or alleged offence' and provides protections for participants in RJ processes (s.26).

The use of RJ in criminal contexts is supported by rigorous international evidence, indicating high levels of victim and offender satisfaction, positive results for supporting desistance from crime and victim recovery, high levels of compliance with agreed actions, and high participation rates among those offered RJ.

In Ireland, the use of RJ has waxed and waned over the last 20 years, with peaks and troughs in restorative youth cautions happening alongside a recent growth in its use by the Probation Service and by Probation-funded projects. Recent research by RJS4C [estimated](#) that around 850 cases involved RJ in 2019, of which 140 involved victims. RJ is happening across Ireland, including both victim-offender dialogue and offender-focused interventions, in offences of a range of seriousness and referred or instigated by different parties. We welcome the Programme for Government commitment to make RJ widely available in Ireland.

Attributes of a Successful Restorative Justice Service

- It ensures that safe, high quality RJ is accessible by all victims and offenders who may benefit from participation. This includes for all offences, at all stages of and beyond the criminal procedure (i.e. from pre-diversion to post-imprisonment), and across the entire jurisdiction, including the option for self-referral and flexibility as regards models to ensure the best fit with participants' needs.
- It integrates existing knowledge and skills, making the most of previous and ongoing investments and existing capacities for delivery and training within the statutory and community sectors.
- It is transparent and evidence-based, with systems in place to collect and publish data that allows for the monitoring and development of services.
- It adheres to national and international standards relating to restorative principles and safeguards for participants and prospective participants, while operating within a flexible framework allowing it to respond to local needs and grow organically.
- It has the authority and autonomy to deliver RJ services in such a manner as to balance the needs of victims, offenders and communities, while working in partnership with stakeholders across the statutory and community sectors and having credibility among referral agents and partners.

- It achieves high levels of awareness and understanding among stakeholders, including the media, the public, and the statutory and community sectors.

Options for the Delivery of Restorative Justice Services in Ireland

Option 1 Strengthen existing capacities within current structures

Increase resources to statutory agencies and community-based organisations (CBOs) that provide services currently. This would allow them to process an increased number of cases from existing referral pathways, and review their referral criteria and pathways, catchment areas and the models of service they provide. Additional resources would enable further staff recruitment, training and development, and the logistical costs of greater provision (including IT and travel costs).

Merits of this option include building on the expertise, recognition of and confidence in existing services, retaining flexibility in delivery at the local level, and increasing support for the existing services. Challenges include ringfencing resources, providing effective coordination and oversight, and ensuring commitment to restorative principles and the provision of comprehensive RJ services, given organisational imperatives.

Option 2 Establish dedicated Restorative Justice Coordinators across all relevant agencies

In addition to the strengthening of existing capacities, Option 2 would also strengthen capacity in statutory agencies, CBOs and parts of the justice sector that do not currently offer an RJ service to any great extent. This would include all agencies with an operational role in the criminal justice procedure, although not all Coordinators would need to be full time. Coordinators would have an organisation-wide brief to enhance capacities and knowledge, and drive and develop the delivery of RJ. They would also ensure that adequate support and resources are available to CBOs, potentially establishing new capacities therein.

Merits of this option include potential for Coordinators to collaborate with each other and with interested parties in their agencies to identify and fill gaps in service provision and inter-agency collaboration around RJ. This could include the creation of new RJ services in the community sector (either creating new bodies or expanding the remit of existing bodies), rather than just expanding catchment areas of existing services. The challenges of Option 2 are similar to those in Option 1, albeit with stronger inter-agency coordination.

Option 3 Establish a national Restorative Justice Delivery Service coordinated by the Department of Justice, with regional multi-agency partnerships responsible for service provision

Create a new RJ service within the Department of Justice with a National Lead, a modest, co-located core staff and a dedicated budget and cost centre. The National Lead would be responsible for establishing and supporting multi-agency teams at the regional level, and ensuring the safety, quality and effectiveness of their services and adherence to national and international standards. Each regional team would have their own Coordinator and staff, responsible for negotiating service provision locally with multi-agency partners that both draws on and coordinates existing resources, and develops new capacity where needed, within parameters and funding set centrally. As such, services would be delivered by a combination of previously and newly trained persons in statutory and community sectors, volunteers, independent practitioners and regional staff. A new National RJ Strategic Committee, with representatives from across the statutory and

community sectors, as well as relevant government departments, academia and victim services, and with an independent chair, would provide governance and oversight of the National Lead and overall service.

Merits of this option include combining a national drive for comprehensive RJ services with local flexibility to share resources, build services around existing capacities, and develop new capacity in partnership with regional and national stakeholders where needed. It provides greater central co-ordination, clear identity and leadership for RJ services, the authority to drive and oversee delivery across the sector, and a strong regional and multi-agency focus to respond to local needs and encourage community sector and victim involvement. The main challenge is the need for appropriate resources for the National Lead and regional services, and the time it will take to build relationships and structures with stakeholders (although it would draw on existing partnerships), develop practices that adhere to national standards, and undertake other activities central to its establishment.

Option 4 Establish an autonomous, national Restorative Justice Agency

Establish a new quango or similar state-sponsored agency, functioning independently of government but reporting to a board. The board could be composed similar to the National RJ Committee as described in Option 3. The Agency would be responsible for developing, overseeing and delivering RJ services. Services would be delivered by professionals and volunteers from the Agency, as well as (like Option 3) previously and newly trained practitioners in statutory and community partners, independent practitioners and core staff. As such, the Agency would be responsible for ensuring that RJ is available nationwide through links with existing services and by delivering RJ itself in situations where this capacity does not already exist. It would be responsible for ensuring safe, high-quality services that adhere to relevant standards.

Merits include the clear focus on RJ services, a high profile branding, and independence from the criminal justice system leading to enhanced attractiveness for potential participants. The challenges would include greater staffing and costs, the need to establish credibility with referral agents, partner organisations and the public, and the need to ensure smooth engagement with partners in the criminal justice process. This option would require legislation to establish the Agency and the role of its Director and Board.

Conclusion

In relation to the above, Options 3 and 4 would ensure service provision on the scale required (nationally, for all types of offences, and at all stages of the process) to satisfy the attributes of a successful RJ service outlined, and meet national policy commitments and international standards. Options 1 and 2 would not meet these requirements. Building a stakeholder consultation around the four options, however, would provide for discussions on the appropriate and effective governance structures, different forms of delivery within those structures, and how best to achieve the objectives set out in the European legal framework and domestic policy, without limiting the discussion to these options. The consultation can also consider how to increase awareness and confidence in the service and ensure quality of training and practice.

If supported by the Criminal Justice Strategic Committee, RJS4C is in a position to assist the Department of Justice in undertaking a consultation early in Q3 2021, aligning with timelines in its 2021 Plan to develop options, consult and finalise a policy paper in Q3 and allow for the publication of policy proposals in Q4.