

# Best Practice Guidance for Restorative Practice



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I am delighted to introduce and endorse this 2011 publication of *Best Practice Guidance for Restorative Practice*.

There have been substantial developments in the research and evidence underpinning restorative justice practice. We now know that good quality restorative processes deliver 85% victim satisfaction and a significant reduction in the frequency of re-offending.

The Restorative Justice Council has brought together leading practitioners and research experts, with an international advisory panel, to review and update the 2004 best practice guidance in the light of new developments in research and evidence. Since last summer they have also been working closely with the Ministry of Justice to develop the Government's agenda for restorative justice.

We signalled our commitment to expanding the availability of restorative justice in *The Coalition: our programme for government* and are examining how it can be fully integrated within the criminal justice system.

Ensuring the quality of restorative justice practice, that it is evidence based, ethical and properly accredited will be essential to ensure positive outcomes for everyone involved in restorative processes and to ensure public confidence.

Inside or outside the criminal justice system, innovative uses of restorative justice practices are changing our communities. They are putting the victim centrally in our thoughts and policy and bringing the offender face to face with the consequences of their crime.



**CRISPIN BLUNT**

Parliamentary Under Secretary of State

# Introduction

Best Practice Guidance for Restorative Practitioners was first published by the Home Office in 2004. Included with the 2004 Guidance were a series of recommendations. A key recommendation was the need for the Guidance to form the basis for national occupational standards and a recognised accreditation. Both were completed in 2010 with National Occupational Standards<sup>1</sup> in restorative practice published by Skills for Justice and a new Level 4 Diploma in restorative practice available from City and Guilds. Building on this work, the Restorative Justice Council (RJC) will publish a Practitioner Code of Practice and launch a new Register in 2011 to provide an ongoing badge of professional competence.

Another key recommendation in the 2004 Guidance was for the Best Practice Guidance to be regularly reviewed and updated. In 2010 the Ministry of Justice - now leading on restorative justice policy for Government - commissioned the Restorative Justice Council (RJC) to lead a review of the Best Practice Guidance, bringing researchers, practitioners and commissioners together to update the guidance in the light of research and practice developments since 2004. The full list of those involved in the 2010 review – and those who contributed to the original 2004 guidance - can be found at page 38 of this guidance.

**Restorative Processes** bring those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.

Much of the Best Practice Guidance remains as it was in 2004.

- Participation in restorative processes must always be voluntary for victims/persons harmed. Offenders/perpetrators must admit guilt/accept responsibility and give their informed consent to participating, before engaging in restorative processes, to prevent any risk of further harm.
- This guidance sets out the full range of skills that a practitioner needs to have to deliver safe and positive restorative processes but not all the skills here will be used in every case. It is not a template to be applied, but a toolkit to select from.
- The sections of this guidance can be used, but shouldn't be read, in isolation. For example, the core skills and knowledge outlined at the start of Section A underpin the rest of the guidance.
- The core elements of running a restorative process - and the core skills and knowledge required - have been confirmed by six further years of practice and research evidence. The critical importance of restorative practice based on a set of core skills, knowledge and principles, of time for preparation for all participants and of follow-up and feedback after a restorative process has been confirmed and reinforced by six years experience.

But there have also been some significant changes.

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<sup>1</sup> [http://www.skillsforjustice-nosfinder.com/suites.php?suite\\_id=39](http://www.skillsforjustice-nosfinder.com/suites.php?suite_id=39)

We now have much clearer evidence for when, and how, restorative processes deliver positive outcomes for both victims and offenders, including for serious crimes such as robbery, burglary and violent offences.

Restorative practice has also taken off at the grass roots, where people trained in formal restorative processes have seen that they can use the skills in their daily work to build, maintain and repair relationships. The core skills and knowledge are being used in a multiplicity of ways, from their use in community policing to deal with minor crime and anti-social behaviour to circles in schools to build relationships, to restorative practice in resolving conflicts between foster children and their carers and to use in prisons and secure settings to deal with internal conflicts.

As it is recognised that this is an innovative and evolving field, a new Section C in this 2011 Best Practice Guidance provides an overview of the range of ways in which restorative skills and knowledge are now being used informally.

Section A of this guidance outlines the skills and knowledge needed to run more formal restorative processes. With the publication of three reports in the Home Office/Ministry of Justice/Shapland research series since 2004, and other qualitative research findings, there is a wealth of new material to draw on to shape the guidance in the field. The international legal framework has also developed. Key research evidence, and international law underpinning this 2011 guidance, are listed at Appendix A.

Key issues emerging from that research, which have shaped the 2011 guidance include:

- Restorative processes are overwhelmingly safe and positive experiences for the participants, including for very serious offences. This version of the guidance puts the focus on managing a safe process, whilst upholding the need for appropriate risk assessment.
- Practitioners themselves told researchers that demonstrating their own confidence in the process, and remaining engaged with all the participants throughout the process, was key to managing the anxieties of participants and enabling them to stay involved and that ‘preparation, preparation, preparation’ is the key to any successful restorative meeting.
- The research evidence showed that direct, face to face communication led to the highest rates of participant satisfaction. Therefore, this version of the guidance encourages practitioners to offer face-to-face processes, wherever it is safe to do so; where a face-to-face process is not possible (for safety reasons, or due to the wishes of participants) an indirect process should be offered – e.g. exchange of letters, indirect (‘shuttle’) mediation, telephone or video communication.
- Experience in Northern Ireland Youth Conferencing shows that new technology has opened up new and creative opportunities for restorative processes to take place where a face to face meeting isn’t possible (video conferencing, telephone conferencing, the use of two way screens etc). The guidance encourages practitioners to use the options opened up by new technology creatively to allow communication between participants who choose not to meet, or can’t meet for safety reasons, to be as direct as possible.

- Participants in restorative processes should themselves make the choice whether or not to participate. The guidance has been strengthened to make clear that, other than on safety grounds, participation is a participant’s choice, not that of the practitioner.
- As restorative processes become more widely available within the Criminal Justice System, there are more situations where an offender, with their informed consent, is ordered by the Court to participate in restorative justice, whereas the victim’s participation is entirely voluntary. The guidance now requires facilitators to be aware of the different dynamic that this creates within a restorative process.
- Practitioners reported that in practice the informal ‘tea and biscuits’ time after a formal restorative meeting has finished can be the time where the most restoration happens. Reflecting this, the guidance makes clear how important this time is and how facilitators need to be alert to these ‘unplanned’ moments of restoration, which are often the key outcomes of a restorative process.
- The research evidence shows that the great majority of victims taking part in restorative processes do not seek material reparation as the outcome. Apologies, dialogue, the opportunity to ask and have questions answered, to speak their truth are all far more important to them. The 2011 guidance talks about restorative outcomes in outcome agreements/plans, shifting the focus from purely material reparation towards restoration that is meaningful to the participants themselves, and towards rehabilitative outcomes.
- Restorative skills are being used informally and proactively in a wide range of settings to build, maintain and repair relationships within communities. Learning from practice as it grows and develops, Section C of this guidance reflects this informal use of restorative practice.

Separate, updated guidance on working with sensitive and complex cases remains included at Section B; and guidance on Co-working at Section D. Guidance to line managers and case supervisors are at Sections E and F. In the light of the research evidence on the key role that the service provider plays in the overall quality of restorative practice, new guidance specifically for service providers has been developed, and is included at Section G.

Restorative practice is constantly evolving. As the evidence base grows, we understand more about what makes for the most effective process for everyone involved - what really helps to repair the harm. Practitioners themselves are leading innovation in the field, as people see new opportunities to apply restorative skills and thinking in new ways. As such, the 2011 Guidance will be, like the 2004 Guidance, based on the best evidence and practice available now. On behalf of the Restorative Justice Council, many thanks to everyone who contributed their expertise to the review.



**LIZZIE NELSON**

Director  
Restorative Justice Council



# Endorsements

## **The following agencies endorse this guidance:**

Anti-Bullying Alliance

Association of Chief Police Officers

Association of Panel Members

Association of Restorative Practitioners

Fair Process

Hull Centre for Restorative Practices

KW Consultancy & Training Ltd

International Institute for Restorative Practices (UK)

Ministry of Justice

National Offender Management Service

ProActive ReSolutions

Remedi

Restorative Justice Council

Restorative Solutions cic

SACRO

Skills for Justice

Transforming Conflict

Victim Support

Youth Justice Agency Northern Ireland

Youth Justice Board

We welcome further agency endorsements and will add these to the online version of the Best Practice Guidance.



# Section A Core restorative practice

## Section 1. Core knowledge and skills

Note: In addition to the restorative practice-specific knowledge outlined here, practitioners will need to have underpinning knowledge relating to work with victims/persons harmed and offenders/perpetrators, and relevant to their own professional setting (for example, in relation to child development), including full knowledge of the statutory basis for their work.

### 1 (a) Core knowledge for restorative practice

You must be able to:

1. Provide a definition of restorative practice as a process, including reference to:
  - victims/persons harmed, offenders/perpetrators and communities
  - the aims of restorative practice in different contexts, and potential outcomes
2. Articulate how a restorative process, by aiming to meet the needs of both victims/persons harmed and offenders/perpetrators, differs from other approaches, including:
  - other disciplines (for example, advocacy or counselling)
  - community mediation and conflict resolution (i.e. what difference it makes when there is an identified perpetrator responsible for a particular incident of harm)
  - other approaches to crime and unacceptable behaviour (e.g. a retributive approach, mainstream CJS responses)
3. Be able to give an appropriate explanation of why, when and how restorative processes work, with reference to research evidence and a theoretical base (e.g. conflict resolution theory, theories relating to emotions or social psychology).
4. Demonstrate an understanding of the various different situations in which a restorative process could be used<sup>2</sup>.
5. Demonstrate an understanding of the criminal justice context and/or statutory framework for your restorative practice, if applicable<sup>3</sup>.
6. Demonstrate an understanding of the principles of restorative justice, as published by the Restorative Justice Council in 2004, and the implications of these principles for your own practice.
7. Demonstrate a commitment to working with partners in both statutory and voluntary sectors.

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<sup>2</sup> Including for example, the use of restorative practice in criminal justice, schools, workplaces, community, families and with children and young people

<sup>3</sup> This would include the underpinning legislation and any statutory guidance for the restorative process you are providing, including legislation relating to the rights of children and young people.

## 1 (b) Core skills for restorative practice

### You must be able to:

1. Demonstrate effective and confident communication and personal skills, including:
  - an ability to inspire confidence
  - the ability to motivate and encourage
  - active listening
  - explaining so that others can understand, and checking for that understanding
  - an ability to promote dialogue and enable others to express themselves
  - awareness of and ability to read non-verbal signals
  - summarising and reflecting back
  - telephone and face-to-face communication skills
  - giving and receiving feedback
  - prompting dialogue constructively and positively
  - enabling participants to make their own choices
2. Create a safe environment for participants, including:
  - building, and maintaining throughout the process, trust and confidence of all participants
  - being non-judgemental
  - being sensitive to diversity and difference
  - demonstrating an ability to manage conflict and aggression, while remaining calm
  - assessing imbalances of power and acting to redress these
  - remaining neutral and demonstrating impartiality to all participants.
3. Treat people fairly without discrimination on the basis of gender, age, ethnicity, ability/disability, sexuality, culture, faith or crime committed, including by:
  - ensuring equality of access to restorative process<sup>4</sup>
  - showing respect for all participants, their opinions and views
4. Record decisions and outcomes accurately, following agency guidelines
5. Demonstrate that you can manage your work, including:
  - planning and evaluating your work
  - showing you are following a clear process with each particular case
  - problem-solving and handling complexity
6. Maintain confidentiality, subject to the requirements of the law.

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<sup>4</sup> The Equality Act 2010 puts a duty on all public bodies to:

- eliminate unlawful discrimination, harassment and victimisation
- advance equality of opportunity between different groups
- foster good relations between different groups.

7. Demonstrate self-awareness, including:

- awareness of your own prejudices, and ability to set them aside
- ability to acknowledge, in each specific case, the boundaries of your own knowledge and experience
- recognition of when it is necessary to seek help

8. Demonstrate the skills and ability to work effectively with others, including:

- as a co-worker when appropriate (see Section D)
- as a team member with colleagues in your service

## Section 2. Preparation for restorative processes

### 2 (a) Working to facilitate a safe restorative process

You must have the ability to:

1. Carry out an initial assessment of the incident and potential participants to consider any risk of harm to participants and others through a restorative process, and how these risks should be managed<sup>5</sup>.
2. Access available assessment information relevant to the risk of harm during a restorative process<sup>6</sup> (e.g. relating to prior incidents, mental health needs, substance abuse issues), prior to contacting participants.
3. Assess considerations relevant to safety and prepare participants for the restorative process in relation to:
  - their feelings, attitudes and behaviour, both at the time of the incident and in the present
  - their expectations of the process
  - their motivation for being involved
  - substance abuse and mental health issues
  - any language or communication difficulties, physical or learning disabilities, mental impairment, or ill health
  - intimidation of any participant
  - the ongoing emotional impact of the original incident, including that of any death or serious injury
  - the emotional state of the participants
  - any previous history between the participants, or repeat victimisation
  - significant power imbalances between individuals<sup>7</sup>
  - constraints on the likely location for any restorative meeting (for example, if any meeting would need to be held in prison or a secure residential setting, the security needed and how participants would be able to get there)
4. Assess cases for the presence of any complex issues of intimidation and vulnerability<sup>8</sup> which would require referral to a senior practitioner (who has demonstrated their ability to work with sensitive and complex cases), other professionals or to a specialist support service.

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<sup>5</sup> The broad aims of assessment for a restorative process are to: i) assess how much responsibility is being taken for the harm caused; ii) identify the risk of emotional and physical harm to participants, what value they see in the process and their willingness to engage respectfully; iii) promote opportunities for a safe dialogue and exchange between participants.

<sup>6</sup> The range of information available to a practitioner may vary depending on, for example, whether they are in a statutory or a voluntary agency. Practitioners should take all reasonable steps to access any information that will help them to assess the risk of harm during a restorative process.

<sup>7</sup> For example, these could relate to communication skills, first language, culture, socio-economic status, physique, age, any pre-defined roles of victim/person harmed and offender/perpetrator, or the social support they have available to them.

<sup>8</sup> See Section B of this guidance.

5. Record concerns about safety and risk and ways in which they might be addressed, and refer to the appropriate level of management and/or partnership agency (e.g. all child protection concerns).
6. Develop potential measures to manage any identified risk (involving others in the process, including case supervisors) and discuss these with participants, including:
  - working out with potential participants which type of communication will be most helpful at each stage of the process and any safety implications
  - selecting venues to maximise participants' safety and to minimise their anxieties or concerns, in particular considering how participants will enter venues, where they will wait, how refreshments can be provided, whether it may be helpful to have additional facilitators present if there is a large group/people needing to be accompanied from different parts of the building, whether there are break-out/time-out rooms available
  - managing and balancing the presence/absence of supporters who can influence the emotional and physical risks of the process and its outcome
7. Continue this process of assessing and managing safety and risk throughout the process.
8. Maintain opportunities to re-assess the appropriateness of continuing the process and keep open options to continue the process in different ways.
9. Be able to apply responses to aggression which minimise risk.
10. Recognise when the risk of continuing a particular process, or aspect of the process, becomes unacceptable and end the process safely.

## **2 (b) Informing participants about restorative processes and assisting choice**

Given the research evidence, participants should be offered a face-to-face restorative meeting, unless there are safety reasons for not doing so<sup>9</sup>.

### You must be able to:

1. Provide clear and accurate information to individuals and any supporters about:
  - the purpose and potential benefits of a restorative process and a description of what actually happens
  - the roles and responsibilities of those who will be involved
  - the links between restorative and other interventions

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<sup>9</sup> See also points 6. and 7. below

- how the restorative process would relate to any criminal justice or other proceedings, and the implications for the participants (see 2(b) 10.)
2. Communicate with individuals throughout the process, and encourage them to communicate, in a manner which:
    - acknowledges their situation and their needs within the process
    - treats them fairly, with dignity and respect, whilst recognising the harm that has been caused
    - is appropriate to them
    - encourages an open exchange of views
    - is free from discrimination and oppression
    - addresses each person in the way they wish to be addressed
    - allows them the time and space they need in which to make decisions;
    - recognises that, for some, participation in the process may be required by the court, following their informed consent
  3. Encourage and assist people who have offended/caused harm to:
    - identify and reflect upon their behaviour, the factors that contributed to it and the impact that their behaviour has had on the victim/person/community harmed
    - take responsibility for their behaviour and its impact on others
  4. Encourage and assist individuals to:
    - identify and reflect upon the nature and effects of the harm done and its consequences for them
    - find effective ways in which, if they choose to, they can express this during the restorative process
    - raise any questions and express any anxieties they have about restorative processes
    - be open about their expectations of the process, and to consider how they will feel if these expectations are not met
  5. Enable participants to think through a decision about whether to participate in a restorative process, by providing information about:
    - any risks identified and how you will manage these (see part 2(a) above)
    - how, through the process, you will manage any specific issues identified by participants as causing anxiety
    - the evidence for safety and potential benefits that a restorative process brings.
  6. Where your risk assessment indicates that a face-to-face meeting would be unsafe, but safety could be managed through other forms of communication, explain the options on offer to participants (see 3d).

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<sup>10</sup> You should also inform participants what information about them and the process will be recorded, how it will be kept confidential, and with whom it will be shared.

7. If, having considered the information provided to them, participants are unwilling to meet face-to-face, other options for communication should be offered (see 3d).
8. If any individual decides not to proceed, support them in exercising their rights to opt out, and support any others who would have participated to cope with any disappointment.

#### *Involving and preparing with other participants*

9. Ask the primary victim/person harmed and the offender/perpetrator who they want to be involved in the process, ensuring that no one is involved against their own wishes or the wishes of the victim/person harmed.
10. Assess who else in the participants' circles has been harmed by the crime/incident and might benefit from being involved, balancing the benefits of greater numbers of participants (both for their own restoration, their support to the primary participants and for their contribution to the process) with time/resource constraints. Take into consideration any legal requirements and best practice guidance (for example, around involving parents).
11. For crimes/incidents with a corporate victim, or where a community has been affected, assess who among the participants has been most affected, or is best placed to communicate the impact of the crime on the wider community, or to contribute to an outcome agreement and prepare them to fulfil this role.
12. Risk assess any additional participants (in addition to the primary victim/person harmed and the offender/perpetrator), taking account of available measures to manage these risks.
13. Make a clear assessment, with the various participants, of the most important issues and harms from all participants' points of view.
14. Ensure that all participants are provided with clear information about the restorative process, its structure and potential outcomes, so as to create a sense of safety and clear expectations<sup>11</sup>.
15. Encourage participants to consider before the meeting what form of restoration in an outcome agreement might meet their needs.

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<sup>11</sup> Family Group Conferences (FGC) may involve a two-part structure, where the first part is a restorative process focused on restoration of the victim, and the second part focuses with the family on the welfare needs of the young person. In preparing for a FGC it is important that all participants understand the structure of FGC, the purpose of each section, and who will be present during each part of the meeting.



## **Section 3. Facilitating communication in a restorative process**

### **3 a) Facilitate direct (face-to-face) restorative processes**

You must be able to:

*Preparing for a face-to-face meeting*

1. When working with a co-facilitator, assistant or supporter, ensure that you both understand your roles, as do the participants (see Section D).
2. Assess the likelihood of strong emotions or conflict during the meeting, and ensure you have a plan in place for separate meetings, or time out during the meeting, should this be needed.
3. Assess whether it will help you to use a script, or framework, reflecting the chosen structure for the meeting.
4. Select an appropriate venue and prepare the venue appropriately, including setting up seats according to a seating plan, ensuring refreshments are available and ensuring the premises will meet the needs of all the participants.
5. If you are planning a face to face meeting, and you wish to invite observers:
  - inform all participants about the possibility of observers being present
  - check whether all participants are willing for this to take place
  - inform participants about where in the room observers will be sitting, and gain their agreement to this
6. Manage the arrivals of the participants, ensuring that where possible the participants do not have to meet or wait together prior to the meeting, and that they are not left on their own without access to support and information while waiting<sup>12</sup>.

*During the meeting*

7. Remind participants of the agreed structure and ground rules for the meeting
8. Communicate with individuals, and encourage them to communicate directly with one another, in a manner which:
  - acknowledges their situation and their needs within the process

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<sup>12</sup> If as part of the agreed process (for example, Family Group Conference) participants will be leaving earlier than the end of the meeting, ensure these transitions are also handled with sensitivity to all involved.

- treats them fairly, with dignity and with respect, whilst recognising the harm that has been caused
  - is appropriate to those involved
  - encourages an open exchange of views
  - minimises any constraints on communication
  - is free from discrimination and oppression
  - addresses each person in the way they wish to be addressed
9. Make constructive contributions to the process, aiming to facilitate the dialogue between participants in ways which:
- keep the focus on participants' communication with one another
  - encourage everyone to contribute actively and fully in the process
  - move the process forward at a pace that balances the needs of everyone involved and the need for a fair and respectful process with the time and resources available
  - encourage individuals actively to participate in identifying positive outcomes
  - does not suggest your own 'solutions' or opinions
  - retains the focus on this as the participants' meeting
10. Assess whether at any point it is necessary to stop the meeting, call time out, or have separate meetings.
11. When unexpected issues arise, check with participants which issues should be dealt with during the meeting and which they would prefer to deal with outside the meeting.
12. Promote the independence of individuals during restorative processes, for example by using eye contact to encourage participants to speak directly to one another.
13. Continuously monitor participants':
- emotional and physical well-being
  - compliance with any meeting ground rules established at the start and take appropriate action if the ground rules are not adhered to
14. Identify any signs that indicate potential harm and intervene immediately to protect participants.
15. Give participants space and time to discuss what they want to come out of the meeting, and use these discussions to formulate an agreement.
16. Encourage individuals to review what has happened during the meeting and confirm their perceptions of agreements reached and any unresolved issues.

### 3b) Forming outcome agreements

#### You must be able to:

1. Enable participants to consider and discuss the outcomes they want to see from the restorative process, including:
  - any kind of restoration meaningful to the participants
  - rehabilitative outcomes (including any identified support needs relating to substance misuse, mental health, education and employment, etc)
  - material or financial reparation, either to the direct victim/person harmed or to the community, depending on the wishes of the victim/person harmed
  - any outcomes required by statutory agencies (including completion of identified programmes, adherence to curfews etc)
  
2. In order to do this, you will need to take into consideration:
  - the abilities of the offender/perpetrator
  - what restoration would be welcomed by the victim and would be appropriate to the harm caused, recognising the wide range of outcomes that repair emotional harm (apologies, letters, dialogue, insights, commitments etc)
  - the timing of any financial, practical or emotional restoration, and a schedule for completion
  - any identified needs of the offender/perpetrator such as support for mental health, substance abuse needs and support available to them
  - the need for reparation activity to be clearly defined, measurable, proportionate to the harm caused and supported by the participants
  - the availability of other services/input from other professionals and community-based agencies to undertake any rehabilitative or reparative activities
  - the support available to help the offender/perpetrator to complete the agreement
  - any health and safety implications of the proposed reparation
  - whether insurance is in place to cover any practical work planned
  - any other practical issues relating to costs, transportation etc
  - whether restoration has been agreed with the participation and free informed consent of everyone present<sup>13</sup>
  - any practical limitations on offenders/perpetrators serving prison sentences
  
3. Ensure that no one is listed as a recipient of reparative activity in the outcome agreement without their expressed consent.
  
4. Ensure that there is an agreed person or agency responsible for monitoring the agreement/contract.
  
5. If the offender/perpetrator needs support to complete their outcome agreement, make clear, if possible, who will provide this.

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<sup>13</sup> If in a Family Group Conference process, or any other restorative process, the person harmed is not present at the time the outcome agreement is formalised, ensure that their views are fed in.

6. If money is to be handed over, ensure arrangements are in place to document its movements and have them witnessed.
7. Ensure that all participants understand whether or not the outcome agreement forms a legally binding (breachable) agreement, or whether completion is voluntary.
8. Clearly set out what the consequences will be, and what actions will be followed, if the outcome agreement/contract is not complied with.
9. Whilst maintaining agreed confidentiality relating to what happens in the meeting, make full and accurate records of decisions and outcomes, obtain any necessary signatures on the outcome agreement, and send copies promptly to all who need, and are entitled, to receive them.
10. Provide all participants with a record of what has been agreed, unless this is not required, or desired, by participants.
11. When producing an outcome agreement that could result in prosecution if not complied with, ensure that correct (inter-agency) procedures are followed and inform participants about CJS monitoring arrangements and the consequences of non-compliance. This includes making it clear who will be monitoring the contract and clearly setting out what actions will be followed if the contract is not complied with.

### **3c) Informal/refreshment time at the end of formal restorative meetings**

1. Allow time at the end of the meeting for informal discussion between participants, and a time for reflection following the end of the formal meeting, ideally with refreshments available.
2. Remain present throughout, and be alert to significant further exchanges or moments of restoration between participants, particularly if these should be recorded in the outcome agreement (for example, a request to stay in touch).

### **3d) Facilitating indirect restorative processes**

#### You must be able to:

1. Support participants through their chosen restorative process. Where participants have chosen not to meet face to face, this choice should be respected and indirect options offered.

2. Where participants choose not to meet face to face, or where your risk assessment indicates this would be unsafe, assist participants to choose a form of indirect communication that will work for them, including:
  - indirect 'shuttle' mediation
  - video conferencing
  - telephone conferencing
  - the use of a two-way screen
  - audio or video recordings
  - written communication
3. Ensure that the option of a face-to-face meeting remains available to participants throughout, subject to any safety concerns.

### *Indirect mediation*

If participants have chosen not to meet, but want to communicate via the facilitator, an indirect process may be beneficial. This may be particularly suitable in sensitive and complex cases (see Section B) and may be part of preparation for a face-to-face meeting at a later stage. Where participants have chosen this approach, you must be able to:

4. Gather information relevant to the restorative process, seek clarity and for each item of information record whether it can be shared with other participants as part of an indirect restorative process, and how it is to be shared (or whether it is for your information alone at this point).
5. Ensure you have clarity about what information can be shared and what is confidential, and seek consent to exchange each piece of information.
6. Sensitively and appropriately relay the information each participant has asked to be passed on, giving careful consideration to what the recipient has already indicated they wish to know, and withholding information if there is a serious risk of the information causing harm<sup>14</sup>.
7. Make clear, when passing on information to all parties, where information has come directly from the other participant, and where it is based on your own assessment of the situation.
8. Make accurate and complete records of discussions and agreements with individuals, the decisions that have been reached and the arrangements that have been made, working within any agreements about confidentiality, and taking account of agency arrangements for

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<sup>14</sup> Information intended for communication should not normally be withheld by the practitioner simply to protect the recipient's feelings, as the aim of any restorative process is to enable as free communication as is possible. However, if the practitioner suspects information could cause further serious harm, a supervisor or more experienced practitioner should be consulted for guidance as to what to pass on.

storage, disclosure<sup>15</sup> and confidentiality of records.

9. Assess whether and when to bring indirect communication to a close and whether to move to a face to face meeting. Consider offering other forms of indirect process which might subsequently lead to a meeting.

#### *Written communication between participants*

10. Where appropriate, assist either the victim/person harmed or the offender/perpetrator with the planning, preparation and writing of a letter, taking into consideration:
  - their literacy skills, and possible need for support
  - the possibility of enlisting their supporters or others to assist them
  - the need for letters to address the concerns of the victim/person harmed
  - the need to manage expectations about the contents and style of the letter
  - the need for letters to be both honest and respectful
  - the need to risk assess letters for any hidden messages
11. Provide the person writing the letter with clear information about how the letter will be handed over or read out to the recipient as part of the restorative process.
12. Ask what response they wish to receive or feedback on how their letter was received, and ensure that as part of an ongoing process, or as part of follow up (see Section 4 below), these wishes are met.
13. All letters should be checked for risk of further harm and never handed over in a sealed envelope.
14. Letters should be given to the victim/person harmed only when they have agreed that they are willing to receive it.

#### *Video and Audio communication*

15. Where participants choose to communicate through video (video conferencing) or audio (telephone conferencing) communication this should be prepared for in the same way as for a face-to-face meeting (see Section 3a).

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<sup>15</sup> Information must be recorded in a way that makes it possible safely to disclose a participant's own information to them, without disclosing any information about the other party, other than that which they have agreed may be shared

## **Section 4. Completing the restorative processes – evaluation, monitoring and ongoing support**

You must be able to:

*Assist with, supervise and monitor the completion of outcome agreements*

1. Assist and/or supervise the offender/perpetrator to complete their outcome agreement as agreed when it was formulated.
2. Assess whether the offender/perpetrator has completed the actions they agreed with the victim/person harmed.
3. If the offender/perpetrator has not completed the agreement, assess whether any further support you could realistically give would enable them to do so.
4. If further support is impossible or ineffective, sensitively inform the victim/person harmed, if they wish, and any other agencies whom you have a duty to inform, whether or how far the offender/perpetrator has completed the outcome agreement.
5. Where it is assessed that an individual has not complied with the outcome agreement/plan, and where it has formed part of a statutory requirement, ensure that structures are put in place for passing this information back to the appropriate CJS (or other) agency and the victim/person harmed.

*Evaluate the process with individuals involved*

6. Relay information about outcomes to other parties as agreed by the participants.
7. Provide the parties with the opportunity to discuss openly and honestly their thoughts and feelings about the restorative process and its outcomes.



## Section B

# Sensitive and Complex Cases

This section sets out additional knowledge and skills that are needed to handle more sensitive and complex cases. Sensitive and complex cases should be identified as such during the initial risk assessment and may have some or all of the following characteristics:

- The crime or incident of harm may be of a serious violent or sexual nature, leading to risk of ongoing harm (e.g. cases of sexual or spousal abuse, cases involving death or loss).
- Complexity and range of issues involved (e.g. cases of emotional or physical abuse over a long period of time, cases where there are a number of perpetrators, or a number of persons harmed)
- Participants especially vulnerable to further harm through:
  - the nature of the original incident(s)
  - mental health or other needs
  - ongoing involvement with the justice system
- Participants may have the motivation and/or ability to intentionally cause further significant harm (e.g. where an offender exercises manipulative, controlling or threatening behaviour with a view to increasing the vulnerability of the other participant(s)).

Cases which have any of these sensitive and complex characteristics should ideally be handled by senior practitioners and only by practitioners who can demonstrate the higher levels of skills and knowledge outlined in this section, to enable them to work safely. Managers of such cases should always have relevant restorative experience and be able to provide specialist case work supervision.

Practitioners taking on sensitive and complex cases need to be able to demonstrate that they can balance the benefits of participation in restorative processes and the rights of participants to communicate, with rigorous risk assessment; it is the duty of the practitioner to proceed with a case only if they are sure they can manage a safe process. Restorative processes, particularly direct meetings taking place prior to the conclusion of legal proceedings, must only take place with the free, full and informed consent of all participants, particularly the victim.

### **Additional knowledge relating to restorative processes**

You must be able to demonstrate knowledge of:

1. How participants can cause further harm either during or outside the restorative process, for example through:
  - references to sensitive aspects of the offence
  - lack of acknowledgement or minimisation of the impact on the victim/person harmed
  - blaming the victim/person harmed
  - overt or subtle forms of intimidation

2. How participants can manipulate others to prevent them stating their needs and views and how this can manifest itself in a restorative process.
3. How a pre-existing or ongoing relationship between participants can affect a restorative process, either increasing its benefits or providing opportunities for further harm to be caused.
4. How different kinds of case can contain the elements in 1 – 3 above.
5. Possible attitudes to sensitive and complex cases in the participants' communities and how this may affect them and influence how they participate in the restorative process, especially if the case is widely known.
6. The long-term effects of sensitive and complex cases and the implications for the length and timing of the restorative process.
7. The need for maintaining continuity of case handling, especially applied to the role of the facilitator in relation to the main participants.

### **Relevant general knowledge relating to sensitive and complex cases**

#### You must be able to demonstrate knowledge of:

1. The sources of vulnerability arising from the effects of sensitive and complex cases on those involved, the offending behaviour and relationships underlying these cases and the implications for how to work with participants in a restorative process.
2. The statutory framework relating to such cases, for example relating to:
  - child protection legislation and regulations
  - civil and criminal court measures of protection
  - parole and release of offenders on license
  - the potential implications of restorative processes for current or impending legal proceedings
  - multi-agency public protection arrangements (MAPPA) and public protection teams
  - statutory duties on criminal justice agencies in relation to the service provided to victims
  - legal requirements for information sharing and the limits of confidentiality
3. The range of specialist services and agencies available for those involved in sensitive and complex cases.

## **Additional skills required for sensitive and complex cases**

### You must be able to:

1. Ensure equality of access to the restorative process for the main participants involved and respect their right to communicate.
2. Demonstrate how to assess and balance the opportunities for harm reduction through a restorative process, with any risks of further harm identified.
3. Apply a more thorough initial and ongoing assessment of safety and risk than would be required for less complex cases, including a formal written risk assessment, and ensuring that any relevant specialist risk assessment tool is applied.
4. Select appropriate measures to manage the higher level of risk in such cases, for example co-working with another restorative practitioner, close multi-agency working or specialist case supervision.
5. Judge especially carefully what information may be given to one participant about another, or to anyone else, with the full informed consent of the individual involved, given any identified risks to emotional or physical safety.
6. Ensure the long-term continuity of case facilitation, especially in relation to the main participants, recognizing the longer timescale and more detailed evaluation that may be needed in these cases.
7. Ensure that restorative processes prior to the conclusion of any related legal processes only take place:
  - with the informed consent of victims/persons harmed as to the potential impact on current or future legal proceedings
  - following consultation with the Senior Investigating Officer or relevant prosecuting authority
8. Ensure and record that participants are taking part in the restorative process with their full and free consent.
9. Consider and note any legal proceedings which may impact on the restorative process, especially if the process might compromise any related prosecution.
10. Notice the effects of working the case on you as a practitioner, accessing and making use of appropriate case supervision, including personal support when necessary.

# Section C

## Informal Restorative Processes

As outlined in the Introduction to the *Best Practice Guidance*, many practitioners use the skills and knowledge that underpin formal restorative processes informally, using restorative practice as part of their day-to-day work, managing relationships within the classroom or care home, in the workplace, in prisons and secure training centres, or in community policing.

This section describes how the knowledge and skills in the Core Guidance (Section A) are being used informally across a wide range of settings. This use is varied and expanding, from the use of restorative skills in schools to manage relationships in the classroom, with parents and between staff to use by police in dealing with incidents of anti-social behaviour and as part of resolving neighbourhood disputes, from use in custodial settings to manage internal conflicts to use in workplaces to deal with grievances.

Some key differences between the use of restorative skills in informal restorative processes and the more formal restorative processes covered in Section A of this guidance are:

- Informal restorative processes are used proactively to prevent harm, as well as in response to an incident of harm.
- They are used by practitioners integrated into their daily work, rather than as a discrete, separate process.
- Restorative skills are used on the spot to deal with conflict as it occurs, rather than after the event and following a time of preparation.
- Informal restorative processes can involve work with just one individual, with two people, or as a group process.
- They can involve training children and young people to use the skills themselves, for example as peer mediators, rather than bringing in an adult or outside professional.

A key feature of informal restorative processes<sup>16</sup> is that they are used to build relationships within a group or community, to prevent or minimise the likelihood of conflict or harm occurring, rather than solely in response to an incident of harm. The use of informal restorative processes to maintain and strengthen relationships, and even build them where they do not currently exist, leads to safer and stronger communities where the incidence of harm occurring is reduced. This leaves groups or communities much better placed, through strong relationships and embedded skills, to deal with harm or conflict when it does occur.

**The use of circles** of different sorts is a key element of informal restorative work in settings like schools and care settings but is also part of any restorative working environment, such as a team

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<sup>16</sup> Informal Restorative Processes are also widely referred to as either 'Restorative Practices' or 'Restorative Approaches', this Section therefore embraces both terms.

meeting or problem-solving meeting.

- Circles can be used proactively, to build empathy and community relationships, to share views and feelings and to build understanding and relationships within a group. For example, circle processes are used in schools so that pupils can tell their teacher and classmates how they're feeling that morning and anything that may be on their mind.
- Proactive uses can also include decision-making. Consensus and collective ownership of a decision can emerge through respectful listening to each person's viewpoint.
- Circle processes can be used to deal with a specific conflict or incident of harm. This process is similar to a formal restorative meeting but a circle might be a more appropriate process in a situation where many people have been harmed and many are responsible for harm, within a particular community (for example, circles are used by some police forces, or schools, to resolve conflicts between rival gangs).
- Key features of circle processes are that every participant gets to speak in turn, rather than through a Chair person, and that each person is listened to in turn without being interrupted or directly challenged. Circle processes ensure that the voice of everyone in a group has equal 'airtime', not just the voices of the most confident. Seated in a circle, everyone can make eye contact with everyone else, helping to build a sense of trust, safety and equality within the group.

### **Informal restorative processes**

In addition to the core skills listed in Section A you must be able to :

#### **a) Work with individuals:**

- demonstrating an ability to:

- use a range of questions to enable individuals to reflect on their behaviour and its impact on others
- encourage the use of statements/brief comments by one person to another about how they were impacted by the other's behaviour, e.g. used by a 'harmed' person to show a wrongdoer directly and immediately how they have been affected by their choices and behaviour

#### **b) Work with two people or small groups on the spot to resolve specific incidents of harm (aka corridor conferencing or 'street RJ')**

- demonstrating an ability to:

- use a range of questions to enable all the individuals present to reflect on their behaviour and its impact on others. This may involve running an informal restorative process, asking those directly affected by an incident 'What happened? Who was hurt? What do we need to do now to repair the harm?'

- make a risk assessment on the spot, by using existing professional skills to judge whether the persons involved in the incident are calm enough to talk and listen respectfully to one another

### **c) Work with groups, facilitating circle processes**

- demonstrating knowledge and understanding of the different uses of circles listed above and demonstrating an ability to :

- facilitate circles of various sorts using Core Skills listed in Section A
- establish an agreed set of ground rules with the circle members at the outset
- give everyone in turn around the circle an equal chance to speak (perhaps using a 'talking piece')
- honour everyone's 'right to pass' and offering opportunities to participate when those who pass are ready to contribute
- addressing breaches of circle protocol respectfully, modelling restorative values that include : mutual respect, encouragement to express emotion and develop empathy, non-judgmental active listening, collaborative problem-solving and co-operation with the group or community, as opposed to having solutions imposed by persons in authority.

# Section D Co-working

Co-working can have benefits in a wide range of cases, drawing together different skills and strengths of individual practitioners and their agencies. Practitioners need to be clear about the reasons for co-working a particular case, as this will affect how a case is co-worked. Co-working can be beneficial for three reasons:

## 1. Co-working sensitive and complex cases (see Section B)

In these cases at least one of the practitioners must be fully competent at the appropriate level of restorative practice. Co-working these cases can help provide:

- Additional specialist knowledge (for example, in relation to child welfare issues)
- A counter-balance to any power imbalance among participants (for example, by having a male and female co-worker)
- Safety or emotional support (for example, during preparation or assessment visits to participants' homes)
- The ability to reflect with a co-worker throughout the case as it develops

## 2. Co-working for Continuing Professional Development

Co-working can help to develop the skills of a less experienced practitioner or to provide feedback and reflective learning for both practitioners. Co-working for Continuing Professional Development can provide:

- role-modelling and case supervision for a less experienced practitioner
- reflective learning through feedback and constructive criticism
- case supervision from a senior practitioner

## 3. Co-working for practical support during a restorative process

Co-working for practical reasons during a restorative process can help to provide:

- note-taking and preparation of outcome agreements during a restorative meeting
- accompanying participants separately to meeting venues
- facilitation of separate meetings with participants in the course of a restorative meeting
- practical help with refreshments, setting up rooms etc
- de-briefing and supporting participants separately directly after a restorative meeting

### In preparing to co-work a case

You must be able to:

1. Establish clarity about your reasons for co-working the case.
2. Use co-working to address power imbalances between participants – for example, a lead



female restorative practitioner, supported by a male co-worker, could be used in a sensitive and complex case where gender issues surround an offence by a man against a woman.

3. Share and review any preparatory work which has been undertaken by just one of the co-workers.
4. Plan how you will share roles and tasks before, during and after communication or meeting with any participants.
5. Try to anticipate potential difficulties and how you could support one another (e.g. if one of the parties leaves a meeting or one of the participants needs time out, which of you will accompany them and which stay in the room).
6. Agree how you will communicate with one another during, and provide one another with feedback following, the restorative process.
7. Discuss different working styles and agree how any differences of approach will be handled.

#### **During contact with participants:**

8. Work sensitively and co-operatively together, including:
  - listening carefully to your co-worker during the process
  - asking questions – for example, checking whether your co-worker has finished before asking any supplementary questions of participants
  - if necessary, taking time out to review progress with your co-worker
9. Explain to the participants that you are co-working and why, and demonstrate your co-working relationship in the way you interact with one another.
10. When your co-worker is actively facilitating the meeting, use the time to watch them and the participants and to reflect on the way forward.

#### **After contact with the participants**

11. Exchange feedback and debrief each other with assistance from a case supervisor, if necessary.
12. Allocate any administrative or follow-up tasks associated with the restorative process and, if any information about it needs to be passed on to others, decide who will do this.
13. Ensure there is clarity as to who is undertaking monitoring, supervision of the

offender/perpetrator and any outcome agreement. Decide who will give feedback about completion of the process to the parties concerned and to the relevant agencies.

14. Ensure clarity about who/which agency is to be responsible for the recording of the process and the long-term storage of data and any follow-up action required.

## Section E Guidance for case supervisors

The role of the case supervisor is to provide advice and oversight in individual cases, to bring new ideas and a fresh perspective and to check that nothing is going seriously wrong. Case supervisors need to be fully competent restorative practitioners, as defined in Section A of this guidance. If they are supervising sensitive and complex cases, they also need the skills and knowledge set out in Section B. They do not necessarily need to be senior to the practitioner they are supervising in an organisational hierarchy; they can be peers. This section sets out the additional skills and knowledge needed for case management of restorative work.

1. Assess whether the supervised practitioner is working in accordance with best practice, whether the case is progressing satisfactorily and whether adequate risk and safety management is in place.
2. Identify, with the practitioner, any instances where the practitioner's skills or experience are insufficient to handle the sensitivity or complexity of the case. In any such instance, to:
  - communicate this to the practitioner
  - help them identify how to secure the support or additional training needed to continue working the case (e.g. co-working with a practitioner with the additional skills and knowledge set out in Section B) or refer the case on
3. Help the practitioner to find new ideas and fresh perspectives on how to work cases, without disempowering them, and identify any ways in which their approach may need amending, including by assessing whether they have:
  - put in place measures to manage any identified risks and provide a safe process
  - enabled and supported participants to make an informed choice
  - included, as far as possible, all the stakeholders who need to be involved
  - ensured that the process is focusing on the important issues
  - ensured outcome agreements are realistic and do not have obvious unintended consequences
  - made the process consistent, if possible, with any criminal justice or other context in which it is taking place (e.g. consistency of plans for completing the case with statutory timescales)
  - put in place arrangements, if necessary, to follow up outcome agreements and provide for any long term support needs of participants
  - considered whether participants have any special needs and responded to them
4. Provide emotional and pastoral support to the practitioner, including through:
  - empathic active listening
  - identifying when referral to further independent sources of support, such as counselling services, may be appropriate, sensitively raising this with the practitioner and facilitating referral where necessary

5. Where the case supervisor is not the practitioner's line manager, to maintain a relationship with the line manager, as agreed with the manager and the practitioner, taking into account:
  - the practitioner's possible need for a degree of confidentiality in the supervision process
  - the manager's possible need for general information on the quality of restorative processes they are responsible for
  - the need of participants in restorative processes, and the requirements of the law, for action to be taken if the case supervisor uncovers a serious risk of harm
6. If there are serious concerns about the safety of the practitioner's work, to raise these with their line manager and, if necessary in a particular case, to recommend that the case be closed or passed to another worker.
7. Apply, wherever appropriate, restorative principles and core skills consistent with part 1 of Section A of this guidance in the supervision process.

## Section F Guidance for line managers

The role of the line manager is to ensure that the restorative practitioner has the support and resources to work effectively. They do not need to be a restorative practitioner as long as the practitioners they manage have access to alternative case supervision by a practitioner.

Line management and case supervision may be provided by the same person. However, where the restorative practitioner's line manager does not provide case supervision, a key part of their management role is to ensure case supervision is available from someone else. This could involve arranging supervision from a restorative practitioner in another organisation.

### You need to:

1. Have a general understanding of restorative principles and practice, including the ability to offer a definition of restorative processes, including reference to:
  - balancing needs of victims/persons harmed, offenders/perpetrators and communities
  - restorative justice as a process
  - the aims of restorative practice and potential outcomes
  - emphasis on resolving and reducing harm
2. Set objectives for restorative practice that clearly support the aims of the organisation, and articulate a strategy for sustaining and developing restorative practice.
3. Demonstrate to all staff a commitment to restorative practice, ensuring all staff understand the basic principles of restorative work and why the organisation is undertaking it, and supporting restorative ways of working throughout the organisation.
4. Put in place the key resources for successful restorative work to take place, including:
  - ensuring a realistic balance between case-flow and time for quality work which responds to the needs of participants
  - ensuring, wherever possible, continuity of case handling by practitioners, particularly in long-running cases of a sensitive and complex nature
  - where possible, supporting participants to fulfil outcome agreements, and monitoring fulfilment of outcome agreements
  - supporting restorative practitioners to develop their practice, including through training in accordance with the relevant sections of this guidance, and opportunities for continuing professional development
  - partnership with other agencies, such as referral agencies, agencies working with participants, or able to help.
5. Practitioners should not be assigned a case where there is a risk of a conflict of interest, for example, where their professional role within an organisation (for example, to investigate

individuals for other offences), or in relation to the participants conflicts with the need for impartiality.

# Section G:

## Guidance for service providers

In this section, service providers are taken to be organisations who employ directly or contract individuals to provide restorative processes. Where an individual practitioner who provides restorative processes is self-employed or works on their own, they are also a service provider for the purposes of this section.

Service providers should demonstrate that they understand the over-arching ethos of restorative practice, as articulated in the RJC Principles of Restorative Processes (2004), that they recognise the rights of individuals to communicate with one another (Article 10, ECHR) and are committed to providing equal access to restorative processes for all members of the community, subject to legislative and safety requirements.

### Service protocols

1. Put in place policies and procedures needed for successful restorative work to take place, including:
  - a clear agency commitment to delivering high quality restorative practice based on the needs of participants
  - suitable risk assessment process for all practitioners in your agency to follow
  - clear definitions of roles and case- referral arrangements between restorative practitioners and others in the organisation
  - transparent multi-agency protocols covering information- sharing and how and when cases and case information are passed between agencies
  - financial systems suitable to provide financial accountability for services, including oversight arrangements for handling of any financial reparation
  - clear protocols about what information is recorded, ensuring that these are transparent for participants or any referring agency to refer to afterwards

### Quality Assurance

2. Service Providers are responsible for ensuring that the practice of their agency/individuals within it is of high quality, by ensuring:
  - all restorative practitioners are working in accordance with the guidance set out in Section A of this document, including through access to quality training and opportunities for reflective practice (including through co-working, see Section D) and continuing professional development.
  - all sensitive and complex cases, as defined in Section B, are referred to appropriately skilled and experienced practitioners.
  - practitioners have access to case supervision and emotional support (see Section E).
  - where practitioners are self-employed they are also acting as a service provider and need to ensure their own access to case supervision and opportunities for ongoing learning and



reflective practice.

## Complaints

- Service providers should ensure:
- that there is a complaints procedure in place for participants, allowing for resolution of a complaint through a restorative process by a person other than the individual(s) originally providing the service.
- that records are kept and that learning from complaints is built into agency working.

## Accountability

Service providers are responsible for the following:

3. Participants in restorative processes should be informed of agency policy on recording and sharing of restorative processes and outcome agreements. Informed consent should be obtained from all participants before proceeding with any restorative process.
4. The content of restorative communications and personal information should be kept confidential to participants, subject to their informed consent to share information more widely, the requirements of the law and the protocols and policy of service providers.
5. Participants should be able to request the provider of restorative processes and practices to give them, subsequently, details of the process they undertook, the details of any agreement and its outcomes, as far as these are known by the provider.
6. Accurate records should be kept of each case taken on, the nature of the incident, its referral source, participants involved, assessments of safety, the process<sup>17</sup>, outcomes and feedback to participants and referrers (including the dates of each part of the process).
7. Records and their storage need to conform to statutory requirements under data protection legislation and the Victims Code of Practice<sup>18</sup>.
8. Management systems should be in place to allow managers to assess the progress of cases and to ensure feedback to agencies referring the case on case progression, where necessary.
9. Agreement should be reached with any agency making a referral as to what kind of reporting back is required, bearing in mind the need to protect the privacy of participants, and ensure clarity about timescales, particularly where statutory/criminal justice timescales are

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<sup>17</sup> By 'the process' is meant details of contact with participants through visits, telephone calls, letters etc and when and where meetings between participants in restorative processes take place, rather than the content of what is said during restorative meetings.

<sup>18</sup> Providers need to be aware that legal privilege in England and Wales does not normally extend to restorative work.

involved.

10. As part of the evaluation of restorative processes, feedback from participants should be collected and reflected on to improve the service provided; anonymised data should be made available to agencies commissioning or referring cases.

### **Conflicts of interest**

11. Providers should ensure that practitioners consider carefully whether to take on a case, particularly more serious offences, if there is any risk of a conflict of interest in relation to any individual practitioner or agency involved. Conflicts of interest might include:
  - the practitioner knowing or having a social or family relationship with any participants
  - the practitioner having been previously in a dispute with a participant
  - the practitioner being in a position of authority in relation to a participant
  - the practitioner having any other duties or responsibilities in relation to participants, which would conflict with the need for them to remain neutral (for example, in criminal justice, if a practitioner had responsibility to investigate, charge, prosecute or breach an individual involved in the restorative process)
12. In the informal use of restorative skills, some conflicts of interest may be unavoidable, as restorative skills are used to resolve conflict in the course of other work. However, when a restorative process runs alongside, or as part of, a formal criminal justice process, conflicts of interest as listed above should be avoided.
13. If a conflict of interest becomes apparent during the restorative process, service providers should immediately be alerted and pass the case on to another practitioner.
14. None of the above absolves practitioners from their statutory responsibilities to report certain matters (e.g. child protection concerns or potential security breaches in secure settings).
15. Where practitioners are under a duty to report other matters (for example to report back to Court or to a partner agency), participants should be informed of this during the preparation for a restorative process and reminded of it at the start of any face-to-face meeting.

## Appendix A

Key research evidence used to inform this review and update of the *Best Practice Guidance* includes:

Shapland, J. et al (2004) *Implementing restorative justice schemes (Crime Reduction Programme)*. Home Office. [www.homeoffice.gov.uk/rds/pdfs04/rdsolr3204.pdf](http://www.homeoffice.gov.uk/rds/pdfs04/rdsolr3204.pdf)

Shapland, J. et al (2006) *Restorative justice in practice – findings from the second phase of the evaluation of three schemes*. Home Office. [www.homeoffice.gov.uk/rds/pdfs06/r274.pdf](http://www.homeoffice.gov.uk/rds/pdfs06/r274.pdf)

Shapland, J. et al (2007) *Restorative Justice: the views of victims. The third report from the evaluation of three schemes. Ministry of Justice Research Series 3/07*. London: Ministry of Justice. <http://www.justice.gov.uk/publications/docs/Restorative-Justice.pdf>

Shapland, J. et al (2008) *Restorative Justice: Does Restorative Justice affect reconviction. The fourth report from the evaluation of three schemes. Ministry of Justice Research Series 10/08*. London: Ministry of Justice. [http://www.justice.gov.uk/publications/docs/restorative-justice-report\\_06-08.pdf](http://www.justice.gov.uk/publications/docs/restorative-justice-report_06-08.pdf)

Sherman, L.W. and Strang, H. (2007) *Restorative justice: the evidence*. The Smith Institute: London. <http://www.smith-institute.org.uk/file/RestorativeJusticeTheEvidenceFullreport.pdf>

Bacon, John R. (2010) *Making Progress in Restorative Justice: a qualitative study*. University of Cambridge. [http://www.restorativejustice.org.uk/resource/making\\_progress\\_in\\_restorative\\_justice\\_a\\_qualitative\\_study/](http://www.restorativejustice.org.uk/resource/making_progress_in_restorative_justice_a_qualitative_study/)

The international legal framework underpinning restorative practice in this country and abroad includes:

United Nations Commission on Criminal Prevention and Criminal Justice (2002) *Basic Principles on the Use of Restorative Justice in Criminal Matters*. Vienna: UN. <http://www.unodc.org/pdf/crime/commissions/11comm/5e.pdf>

European Union Council Framework Decision No. R (99) 19 on Mediation in Penal Matters (March 2001) Article 10. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001F0220:EN:HTML>

Council of Europe Recommendation Rec. (2006) 8 of the Committee of Ministers to member states on assistance to crime victims (*Adopted by the Committee of Ministers on 14 June 2006 at the 967th meeting of the Ministers' Deputies*). <https://wcd.coe.int/ViewDoc.jsp?id=1011109&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols Nos. 11 and 14 with Protocols Nos. 1, 4, 6, 7, 12 and 13 (2010) European Court of Human Rights. [http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG\\_CONV.pdf](http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG_CONV.pdf)

All these sources are available via the Restorative Justice Council website at [www.restorativejustice.org.uk](http://www.restorativejustice.org.uk)

## Appendix B

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Restorative Justice Council, Beacon House, 113 Kingsway, London, WC2B 6PP.  
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