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Title: Restorative justice cases in Scotland: Factors related to participation, restorative process, agreement rates and forms of reparation

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Abstract

This research draws on four years of data from three Restorative Justice Services in Scotland to explore the factors associated with service user participation, agreement rates, the use of direct or indirect restorative processes, and different forms of reparation. Among other things, the results show that participation is more likely if the accused is contacted before the victim, if the alleged offence involves vandalism, and if the accused is male or young or does not have a recorded history of offending. The results suggest that, given appropriate ethical and safety considerations, the default practice should be to approach the accused first. The implications of the results are discussed within a theoretical framework.

Introduction

Restorative justice is generally understood as "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" (Marshall, 1999, p. 5). The use of restorative justice has in part grown out of dissatisfaction with the formal criminal justice system in meeting the needs of victims of crime and the wider community (United Nations, 2006). Restorative justice services generally facilitate safe communication with the intention of addressing the needs of victims, ensuring the offender is fully aware of the harm they have caused, agreeing a way in which the offender can make amends for the crime and often taking steps to reduce the likelihood of further offending (Johnstone, 2002). Internationally, restorative justice services vary in terms of their practices, aims and links with the legal system (Miers, 2001).

In Scotland, restorative justice services are available to all victims of youth crime dealt with through the Children's Hearings System (Scottish Executive, 2005). In 2008 the Scottish Government published guidance intended to increase consistency in practice and enable referrals of young people to restorative justice services from a wider range of agencies (Scottish Government, 2008a, 2008b). However, with regard to crimes committed by adults, restorative justice services are only available in five of Scotland's 32 local authorities, and

generally only as diversion from prosecution in cases of minor crime

(www.restorativejusticescotland.org.uk). These services developed from pilot "reparation and mediation" projects first initiated in the 1980s (MacKay, 1988; Warner, 1992). In rare cases, restorative justice has been used in pre-sentencing with referrals from court and in post-sentencing in cases of severe crime (Kearney, 2005; Kearney, Kirkwood & MacFarlane, 2006). The present article focuses on the factors related to various outcomes from cases referred to the three diversion services that cover the five local authority areas.¹

The main aims of the services are:

1. To provide an alternative to prosecution in cases where it is not necessarily in the public interest to prosecute;
2. To provide the opportunity for a person responsible for a crime to engage (either directly or indirectly) in a restorative process and to make amends for their actions to the person harmed by their crime;
3. To offer, through early intervention, a more immediate and effective means to prevent the re-occurrence of the alleged offending behaviour.

Cases are referred to the services by the local Procurators Fiscal (PFs; elsewhere known as Crown Prosecutors). The services then contact the accused and the victim of the offence to offer the option of participation. If either the accused or the victim does not want to participate, the case is returned to the PF, who would then begin prosecution, unless there were reasons not to prosecute. If the victim and the accused agree to participate, a restorative process is begun. Depending on the wishes of the service users, the process can take the form of "shuttle dialogue" (where the victim and accused do not actually meet and the Restorative Justice Facilitator takes information between the two parties; also known as "indirect mediation") or a face-to-face meeting between the victim and accused. If an agreement is reached regarding how the offence is to be dealt with, a report is sent to the PF and the case

¹ The services are operated by the voluntary sector organisation Sacro (Safeguarding communities – reducing offending) and are funded by local authority social work departments. See www.sacro.org.uk for more information.

does not go to court; if an agreement cannot be reached or is not completed, the case is returned to the PF for prosecution. The services are run by a mix of paid and volunteer staff.

Participation

International research has shown that participation rates of persons harmed vary between restorative justice services, and are generally around 40% to 60% (Gehm, 1998). For instance, for Restorative Youth Justice Services in Scotland, the average participation rates among victims have been 42% (Nicol, Kirkwood & MacFarlane, 2006) and 43% (Dutton & Whyte, 2006). The average participation rate in similar services in England and Wales has been 53%; although these ranged from 0% to 100% (Wilcox & Hoyle, 2004). Despite its implications for service effectiveness, little research has explored the reasons for these variations within or across services.

Gehm (1998) suggested that a theoretical framework for understanding participation should take into account people's investment in a restorative approach to justice, the relation between perceived costs and benefits in terms of restoring equity, and the opportunity that restorative justice offers in terms of mutually constructing a narrative about the offence. The first factor is both attitudinal, in terms of the individual's views on how justice should be done, and cultural, in terms of the norms surrounding justice in the individual's community. The costs involved relate to the time and energy the individual must invest into the restorative process, the psychological trauma that may arise from engaging with the offender and any perceived risks of revictimisation. These costs will be weighed against the potential benefits, in terms of financial compensation or psychological benefits that come from the restoration of equity or achieving closure. The third factor is based on the idea that crime damages a person's "self narrative" (that is, a person's understanding of themselves) and the restorative process offers a way of collaboratively telling a story about the offence and the aftermath that helps people harmed by crime to heal and move on (Howard & Wirtz, 1999). This framework implies that participation is more likely to occur in contexts and among people who are invested in restorative approaches, in situations where the benefits from participation are

likely to outweigh the costs (including potential physical and psychological harm), and where the trauma created by the offence creates a need for the people involved to engage in a form of “therapeutic storytelling” regarding the offence.

Previous research has found that the main reasons that victims of crime participate in restorative justice are to let the offender know how they were affected, to receive an explanation and / or apology from the offender, to help the offender deal with issues that might be related to the offending behaviour, and to have a say in what should be done (Campbell et al., 2005; Crime and Justice Research Centre & Triggs, 2005; Nicol, Kirkwood & MacFarlane, 2006; Shapland et al., 2007; Wilcox and Hoyle, 2004; Wemmers & Canuto, 2002). A minority of victims participate in order to receive reparation from the offender; most are more interested in engaging in communication. There are two general reasons for victims choosing not to participate: either a concern for their safety or the belief that their involvement would not be worthwhile. Concerns for safety are generally regarding a fear of meeting the offender or worry about the repercussions that could follow (Campbell et al., 2005; Crime and Justice Research Centre & Triggs, 2005). Those who do not see their engagement as worthwhile state that they feel the offence has already been dealt with and that they have moved on, the offence was too minor to justify participation, they are too busy or do not see engagement as “cost-effective” (this generally applies to organisations rather than individuals; e.g., Crime and Justice Research Centre & Triggs, 2005; Wilcox and Hoyle, 2004). Only a very small minority would rather that the offender was punished than go through a restorative process (Nicol, Kirkwood & MacFarlane, 2006). Also, often victims cannot be contacted by the services. Overall this suggests that victims will generally participate in restorative justice if the offence has affected them seriously enough that they see a benefit in receiving an explanation and apology from the offender or letting them know how they were affected, they would like to have a say in the outcome of the case and possibly receive reparation, or they feel an obligation to help the offender deal with issues that might reduce the likelihood of further offending. Victims will be more reluctant to participate if they are concerned about their safety.

These results fit within Gehm's (1998) framework, as the most common reason for wanting to participate relates to communication, and by implication the desire to work on the narrative surrounding the offence. Furthermore, victims chose not to participate where the potential costs outweighed the benefits; e.g., the time and effort involved was too great compared with the impact of the offence or they were concerned about revictimisation. Finally, although somewhat more difficult to establish from this data, individual attitudes towards restoration and retribution appear to play a role, as some people wanted to help the offender and others chose not to participate because they would rather have the offender "punished."

Previous research suggests that the main reason that offenders want to participate in restorative justice is to offer an explanation and / or apology to the victim; many also want to make amends in a symbolic or practical way (Campbell et al., 2005; Crime and Justice Research Centre & Triggs, 2005; Dutton & Whyte, 2006; Nicol, Kirkwood & MacFarlane, 2006; Shapland et al., 2007; Wilcox and Hoyle, 2004). Many offenders want to use the process as a way of dealing with the offence and some want to help the victim. If the service is an alternative to court or might impact on their court outcome, often they chose to participate in order to receive a more lenient sentence; this was reported as generally less important to them than were aspects of communication and making amends (Crime and Justice Research Centre & Triggs, 2005; Shapland et al., 2007) although the strength of this motivation appears to be highest when the potential for avoiding or reducing a harsh sentence is at its greatest (Maxwell & Morris, 2001). Of the offenders who are referred to restorative justice services, a proportion tend not to participate because they deny the offence, some cannot be contacted, and a few do not want to meet the victim or would rather "get the case over with" by going through court. Overall, the motivation for offenders to engage in restorative justice appears to relate to a desire to communicate with the victim and to make amends; the prospect of avoiding a harsher sentence can also be a motivating factor.

Although Gehm's (1998) framework was applied to victims, the research above suggests that it may equally apply to offenders, as they also saw communication as an important reason for participating. This relates to recent theoretical developments suggesting that it is important for

offenders to construct positive self narratives in order to consolidate decisions to desist from offending (McNeill & Whyte, 2007; Robinson & Shapland, 2008; Ward & Maruna, 2007). The benefit of constructing a more positive self narrative and achieving closure, and possibly receiving a more lenient sentence, is weighed against the costs of the time and effort involved or having to face up to the person they have harmed. Personal attitudes and cultural norms may also play a role in determining whether offenders choose to participate in restorative justice.

Some research has further investigated case-related factors linked to participation. Gehm (1990) found that participation was more likely to result where the offence was committed against a corporate victim (i.e., an organisation rather than an individual), and participation was less likely for more serious offences. Gehm (1998) argued that corporate victims are more likely to participate because the risk of emotional harm is low and because they are more familiar with the damage caused by crime and therefore find it easier to engage in a process that involves reparation from the offender.

Hypothesis one: Participation will be more likely for cases with a corporate victim.

Some further research on the relationship between case-related factors and outcomes found that cases were less likely to go to an intervention if the offender had an extensive criminal history or was referred for an offence of violence or dishonesty, compared with traffic offences and criminal damage (Crime and Justice Research Centre & Triggs (2005). Shapland et al. (2006) also found that cases were more likely to proceed to an intervention if the offender was young.

It is difficult to make comparisons across jurisdictions and between services that operate at different points of the criminal justice system, however the overall impression is that participation is more likely among offences of a “moderate” level of seriousness. Interpreted in light of Gehm’s (1998) framework, these may be the cases where the harm is serious enough to warrant engagement in order to gain psychological benefits from communication and

narrative construction (and possibly financial compensation), yet not so serious that the victim is concerned for their safety or the potential psychological trauma. It should be noted that it is difficult to fully test the theory in the context of diversion from prosecution given that all offences referred to the services are by definition “minor”. A tentative suggestion is that participation is more likely for cases of vandalism (compared with dishonesty or assault / breach of the peace), where the risks of psychological trauma may be low but the chances of compensation may be high.

Hypothesis two: Participation will be more likely for cases of vandalism than cases of assault or dishonesty.

The research cited above shows that participation is generally more likely when the offender is young or does not have a significant history of offending. This may relate to cultural norms and individual attitudes towards retribution and restoration; people may feel a greater obligation to young people and those who are not persistent offenders, because they feel they could help them to “get back on track” (e.g., see Sawyer, 2000). Similarly, persistent offending could be an indicator that the person responsible is not personally invested in the principles of restoration and therefore they refuse to participate.

Hypothesis three: Participation will be more likely for cases where the accused is young.

Hypothesis four: Participation will be more likely if the accused does not have a history of offending.

The Restorative Justice (Diversion) Services can approach the victim or the accused first. The original practice of the services was to approach the victim first, in order to avoid any pressure being put on them by the accused to participate, or any potential for repercussions if they chose not to participate (Warner, 1992; MacKay, 1988). Over time, this practice has generally changed – although it is not uniform – so that the accused tends to be approached first to

avoid re-victimising the victim in the event that the accused does not want to engage in the process. The exception is when the victim is known to accused, where the victim is approached first to avoid the potential negative effects mentioned above.

Most people responsible for minor crime could be expected to participate in a voluntary alternative to prosecution, as this would give them the greatest chance of avoiding a criminal conviction and having a role in the process and outcome. In relation to the victim, however, if they do not know whether the accused will participate or not, they may be most concerned about avoiding further harm, and may be more reluctant to participate in case the accused chooses not to and further victimises them. Given that their only knowledge of the accused may be that they are a “criminal”, they may not assume that the accused is remorseful or wants to make amends. If the victim is approached after the accused has already agreed to participate, they may be more likely to agree to be involved, as they would know that the accused wanted to make amends, and engaging in restorative justice would allow them to be involved in determining the outcome of the case. This is more likely to create a situation whereby the benefits are seen to outweigh the costs, including the potential cost of “secondary victimisation” that can sometimes result from the exclusion of victims from the court process (Johnstone, 2002).

Hypothesis five: Participation will be more likely if the accused is approached before the victim.

Restorative Process

The services are flexible in the sense that service users decide whether they would prefer communication to be indirect and via the restorative justice facilitator (shuttle dialogue), whether to meet each other (a face-to-face meeting), or whether they would like to have a meeting that also involves support persons (a restorative justice conference). It has been noted that shuttle dialogue can be more limited than face-to-face meetings in terms of the amount of information passed and that conferences can have more of a focus on the future

(e.g., to prevent further offending) than either shuttle dialogue or face-to-face meetings (Shapland et al., 2007). Research has also shown that, given the option, only a minority of victims opt for face-to-face meetings or conferences compared with shuttle dialogue (Wilcox & Hoyle, 2004). Given that a face-to-face meeting has more scope for genuine dialogue, participants may be more likely to request this type of intervention if they wish to repair a damaged relationship, or agree on how they should behave if they see each other again by accident.

Hypothesis six: A face-to-face meeting is more likely to occur if the victim and the accused are known to each other.

Reaching agreement

International research shows that restorative processes tend to have a very high success rate – in terms of participants reaching agreements – from around 83% to 98% (Campbell et al., 2005; Crime and Justice Research Centre & Triggs, 2005; Shapland et al., 2006; Wilcox & Hoyle). As face-to-face meetings offer more opportunity for open discussion than shuttle dialogue (Shapland et al., 2007), and opting to meet might indicate a higher level of commitment to the restorative process, it is suggested that face-to-face meetings are more likely to result in agreement.

Hypothesis seven: Face-to-face meetings are more likely to result in agreement than shuttle dialogue.

Financial reparation

As stated above, financial reparation is not a major reason for people participating in a restorative process, although it is for some. For example, in some English services, only 11% of outcome agreements involved financial reparation (Shapland et al., 2006), although 67% of outcome agreements involved financial reparation in services in New Zealand (Crime and

Justice Research Centre & Triggs, 2005). In this regard, it has been suggested that “corporate victims” are more likely to request financial reparation than are individuals (Wilcox & Hoyle, 2004). In these cases, the harm is less likely to be emotional, and therefore financial reparation is an appropriate way of making amends.

Hypothesis eight: Financial reparation is more likely to result when the victim is an organisation rather than an individual.

Method

Binary logistic regression analysis was used to establish which factors were related to various possible case outcomes – specifically, service users participating, the case going to a face-to-face meeting, a satisfactory outcome and financial reparation. This type of analysis was used because it can model the probability of an event occurring where there are two possible results and multiple independent variables. An alpha level of 5% ($p < .05$) was used for all statistical tests. All explanatory factors were initially included in each of the models, and non-significant variables were then removed in a stepwise fashion until only significant variables remained.

Data

The dataset involves regular case data from all referrals that were dealt with from 1 April 2003 to 31 March 2007 for three Restorative Justice (Diversion) Services. The sample contains a total of 3,184 referrals that were accepted by the services, 1,172 cases that resulted in participation and 969 cases that resulted in a satisfactory outcome; descriptive statistics are contained in the appendix. The explanatory factors were as follows:

- Service area (A, B, C; reference category = C);
- Whether the person responsible and person harmed were known to each other;
- Whether the person responsible was contacted first;
- Whether the person responsible had an offending record;

- The type of offence (vandalism, dishonesty, petty assault / breach of the peace, other; reference category = petty assault / breach of the peace);
- The gender of the person responsible (reference category = male);
- The age of the person responsible at time of referral;
- Whether the person harmed was a child (under 16), an adult, or an organisation (reference category = adult);
- Type of intervention (shuttle dialogue vs. face-to-face) – for analyses with the dependent variables of satisfactory outcome and financial reparation only (reference category = shuttle dialogue).

Not all of the data fields are considered to be mandatory by the services, and therefore information on some factors was not available for all referrals. Due to missing data, it was not possible to determine whether the person responsible and person harmed were known to each for 1,069 (34%) of referrals and it was not possible to determine who was contacted first for 1,107 (35%) of accepted referrals.

Results

[Insert Table 1 about here]

The significant results from the logistic regression for participation are shown in table 1. When other factors were taken into account, there was no significant relationship between the case involving a corporate victim and the service users agreeing to participate in the intervention; therefore, no support was found for hypothesis one. In support of hypothesis two, service users were more likely to participate when the offence was vandalism, rather than petty assault / breach of the peace. In support of hypothesis three, when controlling for other variables, the younger the person responsible the more likely it was that the service users would agree to participate in the intervention. In support of hypothesis four, participation was more likely if the person responsible did not have a history of offending. In support of hypothesis five, participation was more likely when the person responsible was contacted

before the person harmed. In addition, participation was more likely if the person responsible was male or the case was referred to service area B rather than service area C.

[Insert Table 2 about here]

Table 2 contains results from a logistic regression analysis for factors related to cases going to a face-to-face meeting. In support of hypothesis six, when other significant factors were taken into account, a case was more likely to go to a face-to-face meeting if the person harmed and person responsible were known to each other than if they were not. Cases were also more likely to go to a face-to-face meeting at service areas A and B compared with service area C. In addition, the younger the person responsible the more likely to case was to go to a face-to-face meeting, and cases were more likely to go to a face-to-face meeting if the person responsible was male.

[Insert Table 3 about here]

Table 3 contains the significant results from the logistic regression analysis testing the variables related to a satisfactory outcome. The restorative process used (face-to-face meeting vs. shuttle dialogue) was not significantly related to the likelihood of a satisfactory outcome, and therefore no support was found for hypothesis seven. The only significant variable was service area; satisfactory outcomes were more likely to result at service area B compared with service area C.

[Insert Table 4 about here]

Table 4 presents the significant results from the logistic regression analysis for factors related to cases resulting in financial reparation. When other significant factors were taken into account, the involvement of a corporate victim was not significantly related to the likelihood of the case resulting in financial reparation, therefore no support was found for hypothesis eight. Financial reparation was more likely to result where the offence was vandalism or dishonesty

compared with petty assault / breach of the peace. When controlling for other factors, financial reparation was also more likely to result at service area B compared with service area C. Financial reparation was also less likely to result when the person harmed and person responsible were known to each other.

It should be noted that the pseudo-R square for the first three analyses were low and therefore these models only explain a small proportion of the variation. In contrast, the model for factors related to financial reparation was relatively strong, and therefore these factors explain a reasonable proportion of the variation.

Discussion

This research looks at factors related to participation in restorative justice within Gehm's (1998) framework regarding the impact of cultural norms and individual attitudes related to restorative principles, notions of costs and benefits, and the role of narrative construction. The framework suggested that participation would be more likely where corporate victims were involved because the risk of psychological trauma would be low and they are more familiar with being harmed by crime and therefore more able to access narratives of criminal harm and reparation. However, no support was found for this first hypothesis. Instead, hypothesis two was supported, in that vandalism cases were more likely to result in participation compared with cases of dishonesty or assault / breach of the peace. This suggests that the potential costs and benefits play a key role in determining whether people participate. Specially, participation in such cases is likely to have a lower risk of psychological trauma and yet the chances of positive benefits (such as financial reparation) are relatively high. Those affected by other crime types may be declining to participate because the risks of psychological trauma outweigh the potential psychological benefits of closure; or conversely, because the impact of the offence was too minor or they had already "moved on" from the offence and the benefits of participating are seen to be too few. As only a minority of victims of crime are afraid of meeting the offender (Crime and Justice Research Centre & Triggs,

2005), and the services only deal with minor crime, the second explanation seems more likely.

Support was found for hypotheses three and four, as participation was more likely to result where the accused was young and did not have a previous history of offending. This provides some support to the role of cultural norms and attitudes regarding restorative approaches to crime, as victims may see first time offenders and young people as more “worthy” of the opportunity for a constructive alternative to court (Wemmers & Canuto, 2002; Scottish Executive, 2007). Offenders without a history of offending may have values that are more in line with restorative principles. Alternatively, accused with a history of offending may have more chaotic lives that make it difficult for them to engage in the process and younger people may be pressured by family members to participate (Sawyer, 2000). These issues of social pressure and circumstance are not covered in Gehm’s (1998) framework; further analysis would be required to test these different explanations.

It is worth noting that one of the aims of the intervention is to reduce the likelihood of further offending behaviour. It is also very difficult – if not impossible – to detect a reduction in re-offending behaviour among people without a previous history of recorded offending (Maltz, 2001). In relation to this issue, Whyte (2002) has argued that restorative justice interventions will be most effective, in terms of reducing re-offending, with serious and persistent offenders. Because those with offending histories were less likely to participate in the service, the potential for the services to reduce re-offending may be weakened.

The results supported hypothesis five, as participation was more likely to result in cases where the accused was contacted before the victim. This suggests that victims are more likely to participate once they know that the accused has taken responsibility for the offence and is willing to make amends. This information is likely to reduce the perceived risks of revictimisation to the point where the benefits of participating outweigh the costs (Gehm, 1998). This suggests that - given appropriate ethical and safety considerations - the default

practice should be to approach the accused first, as this is linked with higher uptake while also reducing the chances of revictimisation.

It was also found that cases were less likely to result in participation when the accused was female. This is of some concern, particularly as women are a target group for diversion services, and so it would be important to ensure that they are not being disadvantaged in terms of accessing the service. Because women make up a smaller proportion of those who commit crime (Scottish Government, 2008c), and they are a target group for diversion, it is possible that on average the cases involving women are more “difficult” because there are less to choose from. This warrants further investigation, as those who participate in restorative justice are likely to receive different outcomes from those who go to court and it is important that certain groups are not being discriminated against (Gehm 1998).

Hypothesis six was supported, as face-to-face meetings were more likely when the victim and accused were known to each other. This suggests that this process is used as a way of mending damaged relationships and / or making agreements about how to behave in the future. It is worth noting the victim and accused were known to each other in approximately three-quarters of cases. This suggests that those who refer cases to the service may believe the strength of restorative justice to lie in its ability to deal with damaged relationships or prevent revictimisation.

Face-to-face meetings were also more likely to result where the accused was young and / or male. This suggests that, when the accused is young, the victim wants to meet with them and ensure that their views are heard and to check that the accused understands what they have to say. This may be used as a forum for young people to make amends in situations where they are unable to make financial reparation. Alternatively, victims may feel that the risks involved with meeting young people face-to-face are lower than the risks of meeting with adult offenders. This may warrant further exploration as the process used is likely to impact on the outcomes (Shapland et al., 2007).

No support was found for hypothesis seven, as there was no significant difference in success rates (as indicated by completed agreements) between cases involving shuttle dialogue and those involving a face-to-face meeting. This suggests that, for these services, service users do not have a higher likelihood of reaching an agreement if they have a face-to-face meeting; rather both processes are suitable for facilitating an agreement and the use of these processes shows flexibility on the side of services to cater to the needs of the service users. Although the process does not appear to impact on agreement rates, it could impact on other outcomes, such as on the quality of information passed between participants and other participant outcomes (Shapland et al., 2007; Wilcox & Hoyle, 2004), and may require further investigation. The fact that no other case-related factors were significantly related to agreement rates suggests that once people have agreed to participate then the likelihood of success is high regardless of the nature of the offence, the relationship between the victim and accused, or other factors related to the background of the accused. It should also be noted that success rates are generally very high, and this lack of variance may make it difficult to distinguish factors related to success.

There was no support for hypothesis eight, as financial reparation was not more likely to result where the case involved a corporate victim when other factors were taken into account. However, financial reparation was more likely to result when the offence involved vandalism or dishonesty and the offence was committed against a stranger. This suggests that both individuals and organisations request financial reparation where the offence has created a clear financial loss, as in instances of theft, fraud or property damage. This implies that persons harmed are requesting “meaningful” reparation, in the sense that there is an intelligible connection between the harm caused by the offence and the form taken by the amends. Amends took other forms in cases of assault and breach of the peace, suggesting that other more symbolic forms of reparation are meaningful to victims in these cases. This confirms that financial reparation is often not a meaningful way of addressing harm for all types of crime – for example, victims of sexual crimes find financial compensation inappropriate (Hamilton & Wisniewski, 1996). This challenges the criminal justice system to

find ways of meeting the needs of victims of crime that go beyond simple monetary compensation.

The results also showed that the service area was significantly related to likelihood of service users participating, satisfactory outcomes, cases going to a face-to-face meeting and cases resulting in financial reparation. This suggests case selection processes or service practices – or possibly other local circumstances – are impacting on service outcomes. Taken together the results may also imply that the higher participation and success rates at service area B are linked with the higher proportion of cases resulting in financial agreements – that is, perhaps this service is receiving more cases with tangible financial benefits for people harmed by crime, which is increasing participation and success rates. This service also makes greater use of trained volunteers than do the other two services, which could impact on effectiveness. Further exploration would be needed to distinguish the effect of case selection processes from other service practices. It is important that this variation between services is taken into account when evaluating restorative justice services, rather than assuming that the effectiveness of one service is representative of the effectiveness of restorative justice as a whole (Miers et al., 2001).

For three of the four models in the analysis the amount of variation explained by the explanatory factors was relatively low. This means that other factors not included in the analysis – such as the attitudes of service users and skill of the restorative justice facilitator – might better explain the different case outcomes. One exception was the fourth model, where the significant factors explained most of the variation for cases resulting in financial reparation. This strengthens the suggestion that certain restorative outcomes are more suitable for certain types of crime (i.e., financial reparation is more appropriate for property crimes between strangers).

The results highlight the usefulness of Gehm's (1998) framework for understanding why people take up or decline the offer of restorative justice. They emphasise that service users weigh up the *perceived* costs and benefits; therefore the information that practitioners

provide, especially in relation to the willingness of the accused to make amends, may be crucial in terms of engagement. This research is a somewhat indirect test of the framework's key components and further research is needed to explore the way in which the different aspects relate. The framework should be expanded to take into account the circumstances of potential service users in terms of their ability to engage in the process and the influence of support people.

References

- Campbell, C., Devlin, R., O'Mahony, D., Doak, J., Jackson, J., Corrigan, T. & McEvoy, K., (2005). *Evaluation of the Northern Ireland youth conference service*. URL (accessed 13 May 2008):
http://www.nio.gov.uk/evaluation_of_the_northern_ireland_youth_conference_service.pdf
- Crime and Justice Research Centre & Triggs, S.(2005). *New Zealand court referred restorative justice pilot: Evaluation*. URL (accessed 18 June 2008):
<http://www.justice.govt.nz/pubs/reports/2005/nz-court-referred-restorative-justice-pilot-evaluation/index.html>
- Dutton, K. & Whyte, B. (2006). *CJSW briefing no. 8: Implementing restorative justice within an integrated welfare system: The evaluation of Glasgow's restorative justice service, summary report*. Edinburgh: CJSW Development Centre for Scotland.
- Gehm, J. (1990). Mediated victim-offender restitution agreements: An exploratory analysis of factors related to victim participation. In J. Hudson, J. Galaway & B. Galaway. (Eds.), *Criminal Justice, Restitution and Reconciliation* (pp. 177-182). Monsey, NY: Criminal Justice Press.
- Gehm, J. (1998). Victim-offender mediation programs: An exploration of practice and theoretical frameworks. *Western Criminology Review*, 1 [Online]. URL (accessed 19 May 2008): <http://wcr.sonoma.edu/v1n1/gehm.html>
- Hamilton, J. & Wisniewski, M. (1996). *The use of the compensation order in Scotland*. Edinburgh: Scottish Office.
- Howard, J. & Wirtz, H. (1999). *Putting the pieces back together again: Narrative therapy and ideas of restoration in working together with victims of crimes of violence*. Paper presented at the Restoration for Victims of Crime Conference, Melbourne, September 1999. URL (accessed 17 June 2008):
<http://www.aic.gov.au/conferences/rvc/howardwr.pdf>
- Johnstone, G. (2002). *Restorative justice: Ideas, values, debates*. Devon and Oregon: Willan Publishing.

- Kearney, N. (2005). *Talking after severe crime*. CjScotland. URL (accessed 19 June 2008):
<http://www.cjscotland.org.uk/pdfs/TASC.pdf>
- Kearney, N., Kirkwood, S. & MacFarlane, L. (2006). Restorative justice in Scotland: An overview. *British Journal of Community Justice*, Vol 4, No 3, Winter 2006, 55-65.
- MacKay, R. E. (1988). *Reparation in criminal justice*. Edinburgh: Scottish Association for the Care and Resettlement of Offenders.
- McNeill, F. & Whyte, B. (2007). *Reducing reoffending: Social work and community justice in Scotland*. Devon: Willan Publishing.
- Maltz, M. D. ([1984] 2001). *Recidivism*. Originally published by Academic Press, Inc., Orlando, Florida. URL (accessed 18 June 2008):
<http://www.uic.edu/depts/lib/forr/pdf/crimjust/recidivism.pdf>
- Marshall, T. F. (1999). *Restorative justice: An overview*. London: Home Office.
- Miers, D. (2001). *An international review of restorative justice*. London: Home Office.
- Miers, D., Maguire, M., Goldie, S., Sharpe, K., Hale, C., Netten, A., Uglow, S., Doolin, K., Hallam, A., Enterkin, J. & Newburn, T. (2001). *An exploratory evaluation of restorative justice schemes*. London: Home Office.
- Maxwell, G. & Morris, A. (2001). Putting restorative justice into practice for adult offenders. *The Howard Journal of Criminal Justice*, 40, 55-69.
- Nicol, W. J., Kirkwood, S. & MacFarlane, L. (2006). *Youth justice services evaluation report: April 2004 – March 2005*. Sacro. URL (accessed 20 June 2008):
http://www.sacro.org.uk/YJ_Eval_Report.pdf
- Robinson, G. & Shapland, J. (2008). Reducing recidivism: A task for restorative justice? *British Journal of Criminology*, 48, 337-358.
- Sawyer, B. (2000). *An evaluation of the Sacro (Fife) young offender mediation project*. Edinburgh: Scottish Executive.
- Scottish Executive (2005). *Restorative justice services in the children's hearings system*. Edinburgh: Scottish Executive.
- Scottish Executive (2007). *Community sentencing: Public perceptions and attitudes: Summary research report*. URL (accessed 1 July 2008):
<http://www.scotland.gov.uk/Publications/2007/11/15102229/0>

- Scottish Government (2008a). Best practice guidance for restorative justice practitioners and their case supervisors and line managers (Scotland). URL (accessed 15 June 2009): <http://www.scotland.gov.uk/Resource/Doc/226996/0061358.pdf>
- Scottish Government (2008b). Restorative justice services for children and young people and those harmed by their behaviour. URL (accessed 15 June 2009): <http://www.scotland.gov.uk/Resource/Doc/226988/0061357.pdf>
- Scottish Government (2008c). *Criminal proceedings in Scottish courts, 2006/07*. Edinburgh: Scottish Government.
- Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Colledge, E., Dignan, J., Howes, M., Johnstone, J., Robinson, G. & Sorsby, A., (2006). *Restorative justice in practice: The second report from the evaluation of three schemes*. URL (accessed 5 May 2008): <http://www.shef.ac.uk/content/1/c6/07/76/55/Restorative%20Justice%20Report%20-%20final%20version.pdf>
- Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Dignan, J., Howes, M., Johnstone, J., Robinson, G. & Sorsby, A., (2007). *Restorative justice: The views of victims and offenders: The third report from the evaluation of three schemes*. URL (accessed 19 May 2008): <http://www.justice.gov.uk/docs/Restorative-Justice.pdf>
- United Nations (2006). *Handbook on restorative justice programmes*. New York: United Nations.
- Ward, T. & Maruna, S. (2007). *Rehabilitation*. New York: Routledge.
- Warner, S. (1992). *Making amends: Justice for victim and offenders, an evaluation of the SACRO reparation and mediation project*. Aldershot, England: Avebury.
- Wemmers, J.-A., Canuto, M. (2002). *Victims' experiences with, expectations and perceptions of restorative justice: A critical review of the literature*. Department of Justice, Canada. URL (accessed 7 August 2008): http://www.justice.gc.ca/eng/pi/rs/rep-rap/2001/rr01_9/p1.html
- Whyte, B. (2002). *Crime and restorative justice*. Edinburgh: Criminal Justice Social Work Development Centre for Scotland.

Wilcox, A. & Hoyle, C. (2004). *The national evaluation of the youth justice board's restorative justice projects*. URL (accessed 20 June 2008):

<http://www.yjb.gov.uk/publications/Resources/Downloads/restorativejusticefull.pdf>

Appendix

Dependent variable descriptive statistics.

Variable	Descriptive statistics	
Service users participated	n = 3184	Yes = 37%, No = 63%
Face-to-face meeting	n = 1158	Yes = 13%, No = 87%
Satisfactory outcome	n = 1172	Yes = 83%, No = 17%
Financial reparation	n = 969	Yes = 30%, No = 70%

Explanatory variable descriptive statistics.

Variable	Descriptive statistics	
Service area	n = 3184	A = 21%, B = 29%, C = 49%
Age of accused	n = 3183	M = 31.00, SD = 13.15
Gender of accused	n = 3184	Male = 64%, Female = 36%
Offending record	n = 3184	Yes = 38%, No = 62%
Type of victim	n = 3175	Child = 5%, Adult = 77%, Organisation = 18%
Victim known to accused	n = 2357	Yes = 76%, No = 24%
Accused contacted first	n = 2319	Yes = 42%, No = 58%
Offence type	n = 3184	Petty assault / breach of the peace = 61%, Vandalism = 26%, Dishonesty = 12%, Other = 2%

Table 1. *Variables significantly related to a referral resulting in participation.*

Variable	Odds ratio	<i>p</i> value
Accused contacted first	1.952	<.001
Vandalism offence	1.428	<.001
Accused female	0.763	0.006
Age of accused at referral	0.991	0.016
Accused has an offending record	0.804	0.022
Service area B	1.239	0.023

n = 2318, Nagelkerke R Square = .078

Table 2. *Variables significantly related to a case going to a face-to-face meeting.*

Variable	Odds ratio	<i>p</i> value
Service area A	8.665	<.001
Age of accused at referral	0.958	0.001
Victim known to accused	2.232	0.006
Accused female	0.435	0.007
Service area B	2.161	0.013

n = 868, Nagelkerke R Square = .180

Table 3. *Variables significantly related to a satisfactory outcome.*

Variable	Odds ratio	<i>p</i> value
Service area B	1.902	<.001

n = 1172, Nagelkerke R Square = .020

Table 4. *Variables significantly related to an outcome of financial reparation.*

Variable	Odds ratio	<i>p</i> value
Offence is vandalism	10.474	<.001
Offence is dishonesty	10.721	<.001
Service area B	2.473	<.001
Victim known to accused	0.176	<.001

n = 723, Nagelkerke R Square = .504