

# The Commission on Justice in Wales - Evidence submission from Why me?

## Why me?

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## Introduction

1. Why me? is an independent charity that campaigns to promote restorative justice ('RJ') for the benefit of victims of crime. Our aim is for every victim who wants it to have access to RJ.

2. We have seen how RJ helps victims gain a sense of empowerment which criminal justice processes do not give them. Victims report high levels of satisfaction, saying that RJ helped them to combat post-traumatic stress and feelings of fear and powerlessness. They feel that their voices have finally been heard and a safe space given to them to ask questions and talk about the impact of the offence. Another factor also drives victims to seek out RJ: the tough and challenging process that offenders who take part in RJ means they are less likely to offend again. Many victims we work with want to do what they can to stop others becoming victims.

3. Why me? works to raise awareness of the benefits of RJ. We do this by providing information and support to victims of crime, offering training and information to criminal justice professionals, and working to ensure that the statutory framework and guidance on RJ are geared towards maximizing opportunities for RJ.

4. Since July 2015 Why me? has also offered a direct RJ service to victims. We do this with a small team of qualified, volunteer facilitators. If we can refer victims to RJ services in their local areas we generally do this. Many of our cases to date have been 'serious and complex'. The following summary of a case we recently facilitated illustrates the value of RJ and the importance of improving access to it.

**Paul Kohler** was brutally attacked in his own home by four intruders; his wife and daughter were also at home. He was left with serious injuries and property was stolen. After deciding he wanted to meet the perpetrators, Paul was helped to access RJ by facilitators at Why me? Several months of work ensued: calls, prison visits, meetings with Paul, the convicted men (and interpreters), prison and probation staff: and a meeting with one of the men finally took place in prison. Paul said, "Restorative Justice offered the chance of being able to ask those questions that we felt remained unanswered after the trial."

Paul says he benefited hugely from the experience, and wants to see more resources devoted to RJ in prisons, probation, and police forces. Like many crime victims, Paul instinctively knew that RJ could provide more answers than prosecution and imprisonment alone. But without our intervention, there would have been no 'trigger' for RJ. The seriousness of the charges made immediate and lengthy custodial sentences inevitable (and deportation likely after part of the sentences had been served). It is unlikely that RJ would have been proposed as part of any disposal, sentence plan or licence conditions. Yet it is in serious cases like this that RJ has seen the most striking results in reducing reoffending and helping victims.

6. Our casework service has identified regular themes about problems accessing restorative justice. See our report from 2015 - <https://www.why-me.org/wp-content/uploads/2015/11/Why-me-Restorative-Justice-Summary-Barriers-and-Solutions.pdf> Some typical examples are set out below. (Most of these cases are not in the public domain.)

**Ray and Vi Donovan**, whose son Chris was murdered, have told us how requests by the young men convicted of the offence to meet them were blocked on separate occasions by probation, a prison governor and a prison chaplain. The Donovans were eventually able to meet all three of the men but, in their view, this should have been made easier. They blame lack of professional awareness about RJ. They have also pointed out that some prisoners first learn about RJ during victim awareness courses but, when prison governors then refer their cases to facilitators, further progress is often blocked by the inability to obtain victims' contact details. Vi commented, "That restorative justice meeting made a real difference to us and we are now hoping to have meetings with the other two young men".

**Attempted murder** - The victim wanted RJ and contacted various agencies without success before turning to Why me? She told us that due to the domestic violence element of the offence, a victim liaison officer had ruled out RJ, even if the offender agreed to take part. Eventually, the prison where the offender is held agreed in principle to assist, but no meeting has yet been fixed, as prison staff are too stretched to devote the necessary time to prepare for it.

**Assault and robbery** - The victim was aware of RJ and sought a conference soon after the offence, in which she had briefly lost consciousness and suffered injury. Her initial attempts to access RJ were unsuccessful but, once a helpful police caseworker was involved, the case was passed to probation and, from there, to Why me? The offender pleaded guilty and, at sentencing, the judge recommended that RJ be considered. Due to our efforts liaising with resettlement staff and probation services, it seemed initially that a conference could take place, as the offender was willing. However, after agreeing to it in principle, he was informed that he would be deported the next day. The Home Office immigration caseworker who we were put in touch with afterwards said

the deportation could not have been held off to allow RJ to take place. The victim therefore lost the opportunity to take part.

**Death by careless driving** As a result of the offence, the victim lost a close family member. It was over three years after the offence that she happened to hear about RJ and took steps to access it. She found the experience extremely valuable but only wished she had known about RJ sooner.

7. All these cases demonstrate the need for more public and professional awareness of RJ and a greater commitment to enabling it to take place. This needs good liaison between victim and offender services and enough time in workloads to prepare for conferences. All agencies, including immigration services, need to understand the importance of allowing victims' voices to be heard, particularly when they themselves initiate RJ.

## 8. Public support for Restorative Justice – IPSOS Mori Poll by the Restorative Justice Council

We draw the Inquiry's attention to the poll published by the Restorative Justice Council, which demonstrates 80% public support for people to have the right to meet their offender, rising to 85% among victims of crime. <https://www.restorativejustice.org.uk/news/new-polling-shows-overwhelming-public-support-restorative-justice>.

## 9. National Victim Strategy

The committee will be aware a new National Victim Strategy is being prepared by the Ministry of Justice as part of [MoJ single departmental plan](#). The intention is that this will set the framework for victim services for the next five years. Consultation with selected victim groups took place during November and December with Ministers aiming to publish the strategy in 2018.

Why me? were invited to contribute an initial response about victims rights and RJ.

The four recommendations we proposed are :

### 1. Restorative Justice – a right

#### Recommendation 1

We recommend that access to Restorative Justice, information about it and ultimately, the right to have the option to undertake it in the appropriate circumstances should be central to the strategy.

### 2. Victim Code of Practice entitlements

#### Recommendation 2

We recommend clear and consistent and enforceable measures to ensure Code compliance by all agencies delivering victim services.

### 3. Victim Code of Practice – treating everyone equally

#### Recommendation 3

We recommend that the strategy makes the entitlement for victims of youth crime, an entitlement for all victims. Restorative Justice has been successfully used across the country by Youth Offending Teams for many years. Not all victims take up the offer but those who do benefit hugely as do the young people who have offended.

### 4. National Probation Service – the role of Victim Liaison Officers

#### Recommendation 4

We recommend that the role of Victim Liaison Officers in the National Probation Service should be reconsidered in the light of victim need. This may lead to victim service provision being taken out of NPS and being offered as part of a more generic victim service which is set up to respond to individual's needs.

10. We now turn to the issues in the inquiry's terms of reference.

10.1 ***1. What is working well in the justice system in Wales? What is not working well? Are there examples of innovation and good practice, both in and beyond Wales, which should be adopted and shared?***

Why me? does not have detailed knowledge of the level of support for Restorative Justice within Wales. We do however have knowledge of where RJ is working effectively within England. We would wish to draw the attention of the inquiry to models within Durham, Gloucestershire and Sussex.

<https://why-me.org/2017/case-study-1-county-durham-darlington-restorative-hub/>.

<https://why-me.org/2017/case-study-2-sussex-restorative-justice-partnership/>.

Northumbria are also due to launch their Victim First initiative which we would see as an excellent example of good practice.

10.2 **2. What are the economic, social, geographical, technological, constitutional and other barriers to improvement and how could these be overcome?**

The Transforming Rehabilitation agenda has had a negative impact in regard to the use of restorative justice. Why me? would not wish to comment upon the political issues that led to the TR agenda however we feel the inquiry would benefit from consideration of the recent evaluation report published by the Justice Committee,

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/news-parliament-2017/transforming-rehabilitation-report-published-17-19/> and also consideration of the Howard League proposals

to address the identified shortfalls,

<https://howardleague.org/blog/community-justice-and-the-future-of-probation/>

It is also particularly noteworthy that the announcement of 27th July by the Justice Secretary David Gauke, set out his vision for the future of probation services in England and Wales where reintegration of CRC work to NPS will facilitate environment for RJ, as well as some of the other recommendations, such as increased money for through the gate services and involvement of vol and community sector.

**10.3 3. What problems face the people who work within the justice system in Wales (including policing, prosecution, courts, prisons and probation) and the people who are affected by it?**

Why me? are aware of low morale within 'probation' and prison staff who are seeking to respond to significant organisational changes within their organisation. The use of short term contracts for justice service staff also leads to a greater than desired turnover of staff. This has the consequence of loss of expertise and a breakdown of partnership arrangements.

**10.4 4. Does the justice system in Wales currently provide access to all who require its services, including advice? How would you improve access to justice in Wales?**

The 2018 British Crime Survey identifies that only 7.5% of victims recall being given the offer to meet their offender. Why me? considers this to be unacceptable given the Victim code requires victims are made aware of the offer of RJ if a service exists. For each victim there will be opportunities to ensure they are aware of the potential for RJ as they travel through the traditional justice system. This also applies for offenders where RJ can make a significant impact upon reoffending rates. Examination of areas of good practice, see Q1, would assist greatly the justice system in Wales complying with the Victims Code of Practice.

**10.6 6. Could local authority services in relation to justice and the local provision of legal advice be better organised and co-ordinated with policing, prosecution, courts, prisons and probation?**

Why me? would draw the attention of the inquiry to the Howard League proposals for reform. Our strong view is that alignment with PCC areas would be a further enhancement.

**10.7 7. Are there changes that should be made to the capabilities and effectiveness of the ways in which the police, probation and prisons**

**approach their tasks? What should be done to increase community safety, wellbeing and social cohesion and reduce crime? What can be learnt from other countries where rates of crime and imprisonment are lower?**

Our experience of the justice system indicates a system that is fragmented and disjointed and not designed for the needs of victims and offenders. The transforming rehabilitation process within prisons and probation have only further exacerbated this situation. Whilst recognising there are more informed groups would have a strategic view on how the system should be reorganised we would wish the inquiry to be aware that Why me? identifies skilled motivated people working together in a multi-agency structure with a shared vision as being the key factor for success. On occasions they achieve success despite processes and procedures and do the right thing!

Restorative Justice by its nature is about resolving conflict between parties and has restoring the situation as an underlying principle. Why me? considers RJ to be an excellent tool to utilise for enhanced community safety, well being and social cohesion and reduction of crime.

**10.10 10.What steps do you think need to be taken to facilitate positive change in the justice system in Wales?**

To drive through a programme to facilitate positive change will require clarity and an urgency on the need for change with strong visible leadership, effective and innovative processes, suitably skilled and rewarded staff. The recent announcement of the amalgamation of all offender services in Wales offers an opportunity to put RJ at core of offender rehabilitation. Any strategic solution to justice must consider the needs of victims, and be coordinated with PCCs and their delivery of victim services.

Why me? thank the Inquiry for the opportunity to comment and we wish you success.