

# Written evidence submitted by the Restorative Justice Council (RJC) on the Victims and Prisoners Bill (VPB01)

## House of Commons Public Bill Committee

### 1. About the RJC

The Restorative Justice Council (RJC) was formed in 1998 as an independent third sector membership body for the field of restorative practice and the national voice advocating the widespread use of all forms of restorative practice, including restorative justice. The Council primarily operates across England, Wales, and Northern Ireland.

Its role is to set and champion clear standards for restorative practice which ensure quality and support those in the field to build their skills and knowledge. At the same time, the RJC raises public awareness and confidence in restorative processes. The aim of the RJC is to drive take-up and to enable safe, high quality restorative practice to develop and thrive.

The Council's charitable aims are specifically restricted to promoting restorative justice for the public benefit as a means of resolving conflict and promoting reconciliation by:

- A. promoting the use of restorative justice in the criminal justice system, in schools, health and social care and in the workplace and elsewhere in the community in situations where conflict may arise
- B. developing and promoting agreed standards and principles for evaluating and guiding restorative practice
- C. advancing education and research on restorative justice and the publication of the useful results of that research Practice Standards and Quality Assurance

The RJC has developed clear, evidence-based Practice Frameworks and guidance to support the delivery of quality restorative practice and have put mechanisms in place to enable our members to demonstrate they meet these standards. The Frameworks and Practice Guidance have been designed to apply to all areas of restorative practice, including formal and informal processes in the workplace, education, social care, health, the community, and criminal justice sector. Practice Registration is available to Practitioners, Service Providers, Restorative Organisations and Training Providers. The RJC maintains a register of those individuals and organisations who have been awarded Registered status which can be accessed at [Search our Practice Registers | Restorative Justice Council](#)

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### 2. Executive Summary of Submission

The RJC regrets the decision to link the previously proposed draft Victims Bill to proposals for changes in parole. We believe this detracts from the focus on ending victims' current status as bystanders in the criminal justice system.

We continue to recommend that the 12 rights set out in the Victims Code should be included in primary legislation, rather than the four principles. This is necessary to bring about the cultural change for victims that the Government itself says is necessary and to make sure that these rights, including information about and access to restorative justice, are given the central importance required to transform the experience of victims. The reasoning for this is set out later in our submission.

There is currently no specific mention of restorative justice in the Bill. The third of the four principles set out is “ensuring victims have their voices heard – victims must have their voices heard in the criminal justice process.” Restorative justice has a key role to play in empowering victims. For RJ (Restorative Justice) services to be available to all victims of crime, and deliver that aspiration, the All-Party Parliamentary Group (APPG) on Restorative Justice has called for:

- A national action plan on Restorative Justice
- A named Minister and senior civil servant tasked with delivering the action plan
- Publication of an annual Restorative Justice report on the national action plan progress which is laid before Parliament

The APPG on Restorative Justice chaired by Elliot Colburn MP is currently drafting an amendment to the Bill which would improve it in this respect; his proposed amendment will provide the specific reference to RJ required to drive the changes needed to ensure consistent delivery of the Victims Code rights.

The Justice Committee report also recommended that such a direct reference be made. See paras 73 – 75 of the report. [Pre-legislative scrutiny of the draft Victims Bill \(parliament.uk\)](https://www.parliament.uk/publications/2018/03/pre-legislative-scrutiny-of-the-draft-victims-bill)

### **3. The Bill’s definition of victim**

The Bill defines a victim as someone who has suffered harm because of being subjected to or witnessing criminal conduct. For restorative justice, this is a narrow definition that does not fully recognise the harm caused by crime, not only to those who directly experience it but also the wider circle of family including dependents and extended families. Peers, friends, work colleagues and others can also suffer significant harm. The impact of each crime is unique – restorative justice practitioners will rightly find themselves working with all those affected.

The current definition of close relatives applied when the victim or victims have died is also a narrow one, restricted to spouse, partner, relatives in direct line, siblings, dependents, guardians, and carers. This should be extended to include members of extended families and close friends. We note that the proposals in Part 2 of the Bill, in respect of victims of major incidents, does recognise the importance of close friends. The different parts of the Bill should adopt a consistent approach to this.

The Bill’s definition of a victim excludes victims of anti-social behaviour. The RJC supports the calls made by successive Victims Commissioners for a better deal for this group of victims. This group of victims are excluded from the provisions of the Victims Code and do not have the support of services funded by the MoJ Local Victims Grant, which prevents providers funded from this source from offering support. Restorative approaches such as mediation, reparation and restorative justice have a key role. The Home Office Guidance on ASB (Anti-Social Behaviour) recommends the use of restorative justice as part of community remedy. During the recent consultation on its guidance, the Home Office clarified this in response to amendments suggested by the RJC. The approaches of the Home Office and Ministry of Justice are not consistent with each other, undermining a cross-governmental approach.

### **4. The status of the Victims Code**

As indicated above, the RJC’s view is that it would be preferable if the 12 rights in the Revised Code were put into primary legislation, rather than the four principles. It has taken this view because of its members direct experience of working to the spirit and letter of Victims Code over several years, both in its current form and previous version. Currently victims are too often viewed as bystanders by the

criminal justice system; if that position is to change, the rights in the Code need to be fully enshrined in primary legislation. Effective monitoring of compliance will also be much easier if this approach is taken. The four principles are open to interpretation, the rights are much clearer in defining clear expectations. This approach would give a clearer indication to victims that their rights are enshrined in law. It would also send a clearer message out to the Criminal Justice System about the importance the Government attaches to these rights.

In his Foreword to the Government Response to the Consultation on the Revised Code the Parliamentary Under Secretary at the Ministry of Justice stated

“These changes mean that when the new Code comes into force it will be based around a clearly defined set of rights that are both easy for victims to understand and which clearly set out the minimum level of service, they can expect from criminal justice agencies. This will help to ensure that the experience of victims within the justice system improves **and will form the basis of our forthcoming Victims’ Law, which will seek to guarantee these rights.**”

These words have led to an expectation that the Victims Bill would put the rights of the Code into primary legislation, we believe that the Bill falls short of doing this.

## 5. RJC proposals for changes to the Victims Code

The RJC has proposed the following changes to the Code, to strengthen the provisions already in it in respect of restorative justice. The All-Party Parliamentary Group on Restorative Justice support these proposals. The two key purposes of the changes are to give a higher profile to restorative justice by including additional references to it in the Code, including in the wording of rights three and four; and to ensure that information about RJ is provided wherever possible by trained restorative justice practitioners who can answer the questions victims may have. **The proposed changes in wording are highlighted in red.**

Right 3: To be provided with information when reporting the crime, **including information about Restorative Justice services.**

3.4 If the offender is an adult, you have the Right to receive information about Restorative Justice from the police **and a trained restorative practitioner** and how to access Restorative Justice services in your local area. If the offender is under the age of 18, you have the Right to receive information about Restorative Justice from **a trained restorative practitioner on behalf of** the Youth Offending Team.

**3.5 Although the police are responsible for providing you with information on Restorative Justice initially, all service providers must support the offer of this information at multiple stages of the criminal justice process so that you may make an informed choice as to whether you wish to explore it. Information about RJ should always be provided by a trained and experienced RJ practitioner who will be able to answer any questions you have about it.**

Right 4: To be referred to services that support victims, **including Restorative Justice services**, and have services and support tailored to your needs.

4.2 Throughout your case, all service providers must give you the opportunity to be re-assessed if you tell them how your needs have changed. **This should include referral to Restorative Justice services.**

4.4 Services that support victims, **including Restorative Justice services**, are there to help you cope and, as far as possible, recover after a crime. Access to support is free, even if the crime has not been

reported to the police. For further information about the support in your area, contact your local Police and Crime Commissioner or visit: [www.gov.uk/get-support-as-a-victim-of-crime](http://www.gov.uk/get-support-as-a-victim-of-crime)

We would also like to propose that the description of the National Homicide Service be amended as follows:

What is the National Homicide Service? The National Homicide Service is a free service that provides emotional, practical, specialist and peer support to families bereaved by murder or manslaughter, including after an act of terrorism. **The National Homicide Service can also offer a referral to a specialist Restorative Justice service.**

The RJC also proposes that there is a need to include a requirement to provide information about Restorative Justice in the following rights:

Right 6: To be provided with information about the investigation and prosecution

Right 7: To make a Victim Personal Statement

Right 8: To be given information about the trial, trial process and your role as a witness

Right 9: To be given information about the outcome of the case and any appeals

Right 11: To be given information about the offender following a conviction

In each of these, the RJC proposes that a new paragraph should be inserted as follows:

**Although the police and a trained Restorative Justice practitioner are responsible for providing you with information on Restorative Justice initially, all service providers must repeat the offer of this information at this stage of the criminal justice process, so that you may make an informed choice as to whether you wish to explore it in the light of the progress of your case. Information about RJ should always be provided by a trained and experienced RJ practitioner who will be able to answer any questions you have about it.**

## **6. Additional resources needed to deliver the rights set out in the Code**

The issue of resources is a key one – the aspirations of the Bill will not be fully achieved unless the approach is properly resourced. The Government claims it has “quadrupled” the funding for victims services. The Committee should scrutinise this claim carefully. It is not reflected in the level of resources allocated to RJ at local level. The MoJ (Ministry of Justice) Funding Strategy for Victims is a welcome step forward but does not go far enough, and the strategy needs to be cross governmental, including the Home Office, DfE, DoH and DLUHC. The Victims Commissioner and PCCs (Police and Crime Commissioners) need additional resources for the new functions they are given in the Bill.

## **7. The role of the Victims Commissioner**

The RJC is concerned about the proposal to transfer in its entirety the function of reviewing the operation to the Code from the Victims Commissioner (VC) to Police and Crime Commissioners (PCC). It would be better if the VC and PCCs had shared responsibility for this function. Four of the key agencies – the CPS, HMCTTS, HMPSS and the YJB – are accountable nationally not locally, and it will need scrutiny at both national and local levels to secure compliance.

The failure of the Government to appoint a new Victims Commissioner, following the resignation of Dame Vera Bair last September, has undermined confidence that its commitment to the role is genuine.

## **8. The duty on the relevant criminal justice agencies to collect data and keep under review their delivery of the Code.**

The RJC supports this aspect of the proposals but in line with the above comments, the duty should be to provide data at local level to PCCs, and at national level to the VC.

## **9. The role of the inspectorates**

The RJC supports this aspect of the proposals. However, it would like to add reference to the role of the inspectorates in working alongside existing quality assurance schemes for victims services, including the scheme developed by the restorative justice sector through the RJC, with financial support from the MoJ. These sector-led schemes have a vital role to play.

## **10. Proposals in respect of the commissioning of victims' services**

The RJC supports the proposal to require greater collaboration between local authorities, PCCs and integrated care boards. It is especially welcome that local authorities and integrated care boards should be given this responsibility. However, it should not be restricted to victims of domestic abuse, sexual offences, and serious violence. The collaboration should include services for victims of crime. It is important that local restorative justice services should be engaged in the development of these strategies in an appropriate way, recognising their expertise and especially the contribution that they can make to giving victims themselves a voice in these discussions. There are of course conflicts of interest that need to be managed appropriately, however it is important to bear in mind that statutory organisations themselves are actual or potential providers of services, as well as third sector and independent providers.

These proposals will not in themselves improve the commissioning of services. The recommendations made by the APPG on Restorative Justice need to be implemented as well, to achieve this and a more consistent offer that meets the requirements of the Code.

## **11. The role of ISVAs and IDVAs**

It is outside the remit of the RJC to comment on the roles of ISVAs and IDVAs. However, it does want to ensure that their training gives them an understanding of RJ, and likewise that RJ practitioners' training ensures they understand the role of ISVAs and IDVAs. The RJC has a concern that sometimes, through lack of understanding, ISVAs and IDVAs do not always facilitate access to RJ for victims that have expressed a clear interest in exploring it as an option. It is important that, to reflect the new status given to them in the Bill, ISVAs and IDVAs comply fully with the provisions on RJ in the Victims Code.

## **12. Restorative justice in Northern Ireland and Scotland**

The RJC believes the Government, with its justice responsibilities for England and Wales, can learn from the approach taken in Northern Ireland and Scotland. Both have restorative action plans in place and provided the kind of leadership called for by the APPG recommendations.

[Adult restorative justice strategy for northern ireland \(justice-ni.gov.uk\)](https://www.justice-ni.gov.uk/adult-restorative-justice-strategy-for-northern-ireland)

[Restorative Justice and Background to the Action Plan - Restorative justice: action plan - gov.scot \(www.gov.scot\)](https://www.gov.scot/restorative-justice-and-background-to-the-action-plan)

[Restorative Justice Action Plan Annual Report \(cycj.org.uk\)](https://www.cycj.org.uk/restorative-justice-action-plan-annual-report)

### **13. Further information about the All-Party Parliamentary Group (APPG) on Restorative Justice**

The APPG recommendations summarised in Paragraph 2 are set out in detail in the first inquiry report of the All-Party Parliamentary Group on Restorative Justice <https://rjappg.co.uk/inquiryreport/> Many of these issues were also identified by the Justice Select Committee in its 2016 report on restorative justice. [Restorative justice \(parliament.uk\)](https://www.parliament.uk/resources/justice-select-committee-report-2016) The position in England and Wales has not altered since then – the Committee’s recommendations to the Government were not implemented.

The Government responded to the APPG’s response to the initial consultation on the Victims Bill. The RJC welcomes the reference in the Report of the Consultation to its representations. The Government made a commitment to a pilot to understand gaps in provision. [Delivering justice for victims: Consultation response - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/delivering-justice-for-victims) However it is unfortunate that one year on from that commitment being made, nothing has been done to implement it.

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