



changing lives
reducing crime

Nacro's response to the Ministry of Justice's Professional Consultation: Getting it right for victims and witnesses

Introduction

Nacro is the largest crime reduction charity in England and Wales. We help over 70,000 people each year, reducing crime and the impact of crime in over 200 communities. Nacro's mission to change lives and reduce crime is predicated on the conviction that we must reduce the devastating effects crime has on individual victims and on communities. Victims of crime have to live with the experience forever, whilst those who commit crime can find it hard to break the destructive cycle of offending. At Nacro we focus our work on:

- intervening early with people at risk of becoming involved in crime and antisocial behaviour to prevent crime happening in the first place
- working with people in prison or on a community sentence to change their behaviour, take steps to repair the damage they have caused individual victims and communities, and help them to move on from crime and offending, and
- resettling offenders after custody to find them a home, a job, skills, enable them to rebuild relationships and reintegrate into their community.

Nacro believes that the rights and needs of victims and witnesses are central to a fair and effective criminal justice system. So too is the need to prevent an individual from reoffending, to reduce further victims and make communities safer. As Victim Support and other organisations stress, victims of crime expect the criminal justice system to reduce the number of victims by reducing crime. It is for this reason that the criminal justice system must find the appropriate balance between punishment, reparation and rehabilitation. In our response to this consultation Nacro has therefore focused on the questions which are most pertinent to our work and the recommendations that we feel will impact specifically on our ability to reduce crime and the victims of crime in the future.

Q19. What measures could be put in place to ensure the safety of the victim when undertaking restorative justice?

It is essential that victims are safe, secure and that their emotional well-being is safeguarded throughout the process of restorative justice. To ensure that this is achieved, restorative justice should always be delivered to a high quality and professional standard. The Restorative Justice Council has set out a Trainers Code and issued Best Practice Guidance for this.¹ These standards ensure choice, manage risk appropriately, reiterate that the process is voluntary, and provide suitable follow-up and evaluation of the process. Upholding these standards should provide assurance that victim safety is not compromised. If restorative justice practices are to be rolled out more widely, it is important that these standards are upheld and that processes do not impact negatively on their emotional well-being.

Q20. How can we change attitudes and behaviour towards reparation and demonstrate how reparative outcomes can be achieved in innovative ways?

Nacro strongly supports reparation as a means to challenge offending behaviour and to encourage offenders to take responsibility for their actions. Reparation provides offenders with the opportunity to make amends and repair the damage they have caused victims and communities. In many instances, the act of reparation can achieve positive outcomes for both victims and offenders as it allows victims to feel a greater sense of personal justice and forces offenders to acknowledge the impact of their behaviour..

It is important to recognise that reparation, particularly where it relates to convicted adults, currently lies outside of what Nacro would consider to be a purely restorative approach. With this in mind it is important to be clear about the distinction between different types of reparative interventions which may not include restorative conferencing. Nacro believes that there is scope for reparation to play a far greater role, particularly in community sentences. Unpaid work (community payback) could be refocused such that it bridges the gap between offenders and the wider community, ensures that the offender takes responsibility for their actions and makes amends to victims as well as communities. Reparative interventions have the potential to bridge this gap further and could be achieved by offering victims and ordinary members of the community more chances to participate in how, where and when the activity is carried out. This could be achieved through greater involvement, with local employees acting as mentors to those serving sentences involving unpaid work and local employers offering work placements, thus providing potential transition routes from unpaid to paid work. The reducing reoffending benefits – which most victims want to see – could be significant if offenders were successfully integrated into the community through their participation in this sort of activity. Given adequate resources and the opportunity to compete, the voluntary sector is in a unique position to play a pivotal role in helping to transform this provision and help deliver such innovations.

There is also value in developing these types of reparative interventions as an integral part of restorative justice approaches, which can deliver very high levels of victim satisfaction,² a reduced frequency in reoffending³ and the potential for substantial financial savings.⁴ This positive evidence has driven an increased appetite for restorative justice across government and other areas of the criminal justice sector. However research by Shapland et al

¹ Available here: http://www.restorativejustice.org.uk/resource/best_practice_guidance_for_restorative_practice_2011/

² Shapland et al (2007) *Restorative Justice: The views of victims and offenders* London: Ministry of Justice

³ Cited in the consultation paper, p.39

⁴ Restorative Justice Council (2011) *What Does the Ministry of Justice Research Tell Us?* available at http://www.restorativejustice.org.uk/resource/ministry_of_justice_evaluation_of_restorative_justice/

found that very few victims had heard of restorative justice before they were approached to take part in the process.⁵ In order to create positive attitudes and behaviour towards reparation through restorative justice, it is vital that positive outcomes are effectively displayed to the public and that a concerted and strategic communications approach is applied to raise the level of public understanding and confidence in the outcomes that can be achieved for victims and communities.

Q21-31 Victim's Surcharge

In many cases, it is appropriate that an element of reparation is financial, and Nacro supports the principle of expanding the Victim Surcharge to support victims' services. As the consultation paper recognises, there is the potential to generate significant revenue that can be put towards the provision of vital services for victims.. Many of these services make a substantial difference to the lives of people unfortunate enough to become victims of crime, and help them to move on from the experience. The most important priority for most victims is that the offender who harmed them does not do the same to someone else.⁶ Therefore, as well as addressing the Victim's Surcharge, there is a need to ensure adequate investment in community approaches which reduce reoffending and act as an appropriate mechanism for reparation.

Financial reparation may not be a realistic option for those offenders who are already financially constrained, with many unable to pay upfront, especially against the significant backdrop of default in relation to financial penalties. The net effect of this is that the prisoner does not end up taking responsibility for his or her actions and the victim does not receive payment within a reasonable space of time. This problem could potentially be circumvented if the government were to take on the initial payment of the Victim Surcharge which could then be repaid to the government, in instalments, by the offender. Whilst we recognise that in the current economic climate this requires a capital investment from government, it would ensure there would be no delay in payment to victims of crime. An offender would still be expected to make the reparation payment but in a managed way.

Notwithstanding this, there is strong evidence to suggest that a significant proportion of offenders are in debt, and this debt often worsens whilst in prison.⁷ Over half of prisoners reported that they were rejected for a bank loan, and 8% (more than ten times higher than the UK average) said they had tried to borrow money from a loan shark.⁸ Our experience of working with offenders and providing successful rehabilitative outcomes in the community leads us to believe that many individuals on receipt of Jobseekers Allowance or low incomes would simply be unable to pay a disproportionately high Victim Surcharge. As currently proposed, the system makes payment of the Victim Surcharge on release from prison, difficult for some offenders, especially those who find themselves struggling to cope financially.⁹ The concept of working prisons and the ability for prisoners to earn a living wage whilst serving their sentence, may however make this more viable. But in the meantime, the financial circumstances of individuals must be considered and a realistic timetable for repayment imposed.

Under the new proposals, there is likely to be a significant increase in juvenile disposals that incorporate a surcharge, meaning that more parents or guardians will be paying the surcharge on behalf of their children. If this is to happen, it is important that measures are put in place to

⁵ Shapland et al (2007) *Restorative Justice: The views of victims and offenders* London: Ministry of Justice

⁶ Victim Support (2010) *Victims' Justice? What victims and witnesses really want from sentencing* London: Victim Support

⁷ Bath C and Edgar K (2010) *Time is Money: Financial responsibility after prison* London: Prison Reform Trust

⁸ *ibid*

⁹ *ibid*

ensure that responsibility is not taken away from the young person and that the full effects of reparation are experienced by the offender. In the case of juvenile offenders other forms of direct reparation may be more appropriate in getting the young person themselves to make amends for their actions. For example, the issuing of a reparation order which would result in the young person having to undertake another form of reparative activity such as writing a letter of apology or meeting the victim may be more appropriate.

Q41. What are your views on the options for limiting eligibility to the scheme for those with unspent convictions: Option A, our preferred option, to exclude from the Scheme all those with unspent criminal convictions? Or Option B, to exclude those with unspent criminal convictions for offences that could lead to an award under the Scheme (i.e. violent and sexual crimes) with discretion to withhold or reduce an award in the case of other unspent convictions?

Nacro believes that the options set out in A and B fail to offer a reasonable or victim-focused approach to criminal injury compensation. When a person has completed their allotted punishment, it is right that they should be able to access the same entitlements as other citizens and this extends to their claim for compensation should they become a victim of crime. Individuals who have committed serious offences are already subject to reductions or potential exemption from the current system. Currently case officers can withhold or reduce an award based on conduct, character or other specified grounds (see page 55 of the consultation). This is assessed on a case by case basis. We believe this approach allows for fair and reasonable decisions to be made and avoids discriminating against a large number of people who are at risk of becoming victims themselves. We therefore recommend that the current system is retained.