

Sheriffdom Lothian & Borders: Restorative Justice Mapping Report: August 2022



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COMMUNITY JUSTICE SCOTLAND

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Executive Summary

Overview

Community Justice Scotland (CJS) were commissioned by the Scottish Government in May 2022 to be the national oversight service for restorative justice in Scotland, as part of the [Restorative Justice Action Plan](#). CJS are responsible for managing the initial test project in the Sheriffdom – Lothian and Borders. The first task was the completion of a mapping exercise.

Aim

Aim: to provide a current and detailed picture of the Sheriffdom – Lothian and Borders.

- Current restorative justice provision
- Current restorative justice developments and opportunities to expand
- Local needs, barriers, benefits and visions in relation to restorative justice provision and development

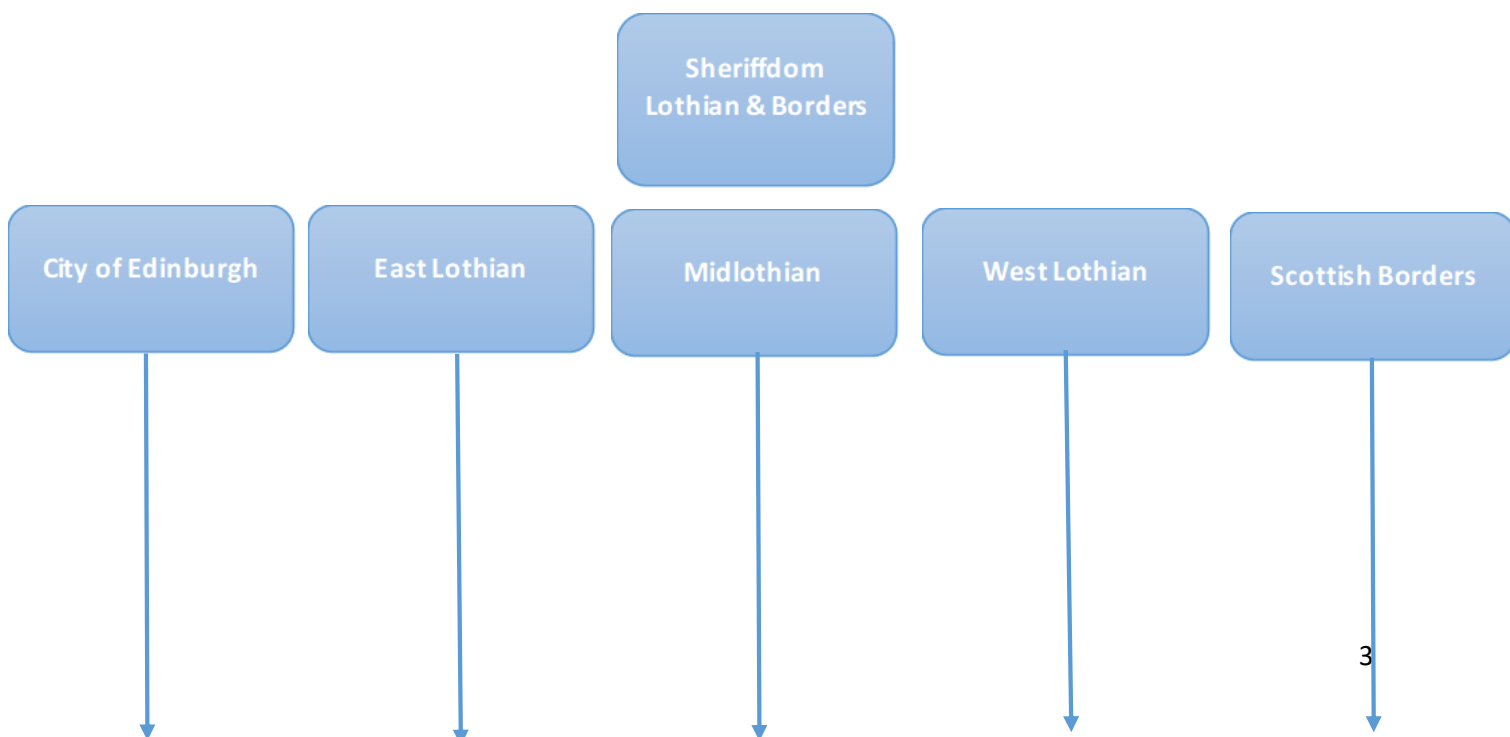
Method

The mapping exercise took a mixed methods approach. A questionnaire was circulated to Community Justice Partnership Leads for completion and wider dissemination. Additional partners were also invited to complete. Initial results were compiled into a presentation for online consultations with respondents to gather wider detail. The consultation period ran from the 6th April – 17th June 2022.

Summary of Results

Numerous community justice partners across the Sheriffdom – Lothian and Borders area responded to the consultation, including Police Scotland, Thriving Survivors, Violence Against Women and Girls, Victim Support Scotland, Sacro, CJP and Social work.

Diagram 1. details the current availability of restorative justice provision.





The Sheriffdom – Lothian and Borders have availability of restorative justice facilitators in a number of services, including Social Work, Police and Thriving Survivors. A number of partners are interested or are due to complete restorative justice training, including Social Work and a manager from Victim Support Scotland. Facilitators are trained in a number of courses including:

- Sacro's restorative skills course
- CJS – Restorative Justice and Hate Crime (for justice workers) course
- University of Strathclyde (Tim Chapman) Restorative Justice & Practices: Essential Skills Course

While trained facilitators are available, all operate within the remit of their own organisations, funding or referral criteria. Sacro can provide facilitators across the Sheriffdom area, but this includes a cost and Thriving Survivors are currently training facilitators, including a 'flying squad' who can work across the Sheriffdom. However, this is for sexual harm, but the training package does provide a levelled approach and covers RJ for more 'general' cases.

The general consensus from respondents is a restorative justice model that is flexible to local needs, responsive to adults and children and young people. It should be one that incorporates a be-spoke service provision with suitable options across statutory and third sector partners, with consistency at heart. Provision should be person-centered and trauma informed.

Respondents highlighted numerous benefits in relation to restorative justice in a general sense, including having their voice heard, being empowered, facilitating recovery from trauma and providing choice, evidencing a clear interrelatedness with trauma informed principles.

In relation to children and young people, benefits included early and preventative approaches, building resilience and empathy, including within the context of family dynamics (e.g. sibling sexual harm).

Respondents highlighted the following barriers and local needs in order to satisfy the vision of the action plan.

Resources and funding

- Significant concerns around funding and allocated timescales, advising there is limited, if any capacity to develop and provide services without funding commitment from the Scottish Government
- Year on year funding has significant drawbacks in relation to service development and recruitment.

Training

- A levelled approach is required that incorporates appropriate specialisms and trauma informed practice

Information sharing

- Concerns regarding the requirement for consent based, information sharing agreements and the challenges associated with developing these
- Concerns on where and how to store data on individuals, especially those who have been harmed

Referral pathways

- Concerns around clarity of referral pathways, especially in relation to self-referrals and ones initiated by those responsible

Awareness, understating and communication

- Effective partnership working and communication is a key area of improvement to ensuing local needs are implemented

Conclusion

The main conclusion from the mapping exercise is the Sheriffdom area is not currently set up to provide restorative justice services in-keeping with the vision of the action plan. This requires a number of elements to satisfy this vision and are presented as recommendations below.

Limitations

The following limitations of the mapping exercise are highlighted:

- Potential of an incomplete mapping of the Sheriffdom area due to partners competing work demand
- The mapping exercise may have missed essential partners due to timescales and communication pathways

- A lack of clarity from the Scottish Government on funding, resource, roles and responsibilities etc. could contribute to apathy in relation in engagement or confusion due to lack of clarity
- General limitations associated with research methods, e.g. overreliance of self-reported data and the production of socially desirable responses

Summary of Recommendations

This section includes a summary of recommendations:

Stage 1

- A restorative justice package, incorporating policy, guidance, training standards and accompanying codes of practice
- A restorative justice Sheriffdom development groups and accompanying sub-groups
- Effective feedback streams utilising participation and communication agreements; including lived experience groups
- Clarification on Scotland training model
- Clarification on funding and resource and associated risk of meeting the vision of the action plan
- Further development of Scotland delivery model and consideration to a restorative justice coordinator
- Awareness raising and communication packages aimed at local partners and services

Stage 2

- Local consultation on the referral pathways and restorative justice intervention model following clarity from the Scottish Government on funding, resource and policy
- Series of partnership awareness raising events to referring practitioners, communities and members of the public
- Development of information sharing agreements
- Establish and test referral and information sharing pathways
- Awareness raising and communication packages aimed at members of the public
- Development of a restorative justice resource pack, or updated toolkit, incorporating new developments

The large majority of these tasks are reliant on clarity from the Scottish Government on funding, resource, policy development role clarity and timescale extension to support the initial test project to fulfil its assigned task.

1. Introduction

1.1. The Restorative Justice Action Plan

In 2019, The Scottish Government published the [Restorative Justice Action Plan](#) and committed to have:

“Restorative Justice available across Scotland to all those who wish to access it, and at a time that is appropriate to the people involved in the case. Approaches taken are consistent, evidence-led, trauma informed and of a high standard. This seeks to ensure the needs of persons harmed and their voices are central, and supports a reduction in harmful behaviour across our communities.”

The action plan has three outcomes to achieve this vision. These include:

- Restorative justice is available across Scotland
- High quality restorative justice services are delivered by trained facilitators
- There is a strong public awareness and understanding of restorative justice in Scotland

Access the [restorative justice stakeholder group](#) for updates on the action plan.

1.2. Restorative Justice Model of Delivery

1.2.1. The Gloucestershire Model

The restorative justice model for delivery in Scotland is loosely based on the Gloucestershire Model. Restorative Gloucestershire operate this model by housing it in Police Headquarters and receives funding from The Office of the Police and Crime Commissioner and The Ministry of Justice, through the Victims Surcharge fund. Restorative Gloucestershire have a team of six Police employed staff members, which include:

- A service manager, volunteer manager (responsible for managing approx. 20 RJ volunteer facilitators)
- A Police sergeant which helps with police decision making and training
- A case supervisor, case facilitator and hub co-ordinator

Restorative Gloucestershire provides a levelled approach to their restorative justice elements of service delivery and two methods of restorative approaches, in the form of restorative mediation and restorative circles. This can be accessed in appendix one. The next section of the report will present a modified restorative justice intervention model for Scotland.

1.2.2. Scotland's Restorative Justice Model

The Scottish Government produced a [Restorative Justice Model of Delivery](#), which was agreed and signed off by the restorative justice stakeholder group in 2020. It comprises of national hub, responsible for oversight, monitoring and evaluation and six regional hubs containing Scotland's thirty-two local authorities, grouped as a Sheriffdom area. The model includes details on the structure and responsibilities for relevant national and local partner organisations.

The Scottish Government produced a [Model](#) for the structure of the regional hubs across community and justice partnerships. These include, the Local Authority and Justice Social Work (JSW) service, Police Scotland (PSoS), the Crown Office and Procurator and Fiscal Service (COPFS), The Scottish Courts and Tribunal Service (SCTS) and Scottish Children's Reporter Administration (SCRA).

Within each local authority area, a number of third sector organisations will also be in operation and considered as part of restorative justice delivery. Local partnerships, including the Community Planning Partnership (CPP) and Community Justice Partnership, (CJP) also play a significant role in coordination and delivery.

The object below is an accompanying document detailing the functions, role and responsibilities of the national hub and local hubs and national and local partners.



RJ hubs and partners
functions and roles.pc

There are a number of referral pathways being considered in line with Scottish Government policy development. Suggested referral pathways are published in the [Designing and Implementing Restorative Justice in Scotland - Toolkit \(page 2\)](#). [These include:](#)

- Youth Justice Referrals
- Diversion from Prosecution
- Pre-sentencing (e.g. Structured Deferred Sentence
- Post sentencing, post release custody / secure care
- Parallel process (requires a way to gather, record and match requests for RJ from people harmed and people who have harmed)

In consideration to the above, it is important to pay attention to the benefits of a self-referral service. This has the ability to satisfy the vision of the action plan, allowing individuals to explore restorative justice, at a time that suits them, irrespective of the type of harm experienced. Scotland will utilise safeguards that only person harmed initiate referrals for gender based violence and cases of domestic and sexual abuse in the context of males and LGBTQ+ as persons harmed. This option provides the most trauma informed referral pathway as it echoes trauma informed principles, specifically choice, collaboration and empowerment ¹.

It is proposed that these referral pathways are facilitated by a restorative justice coordinator, situated in Police Scotland, to alleviate some of the barriers associated with information sharing, and so begin the exploration of RJ suitability by applying appropriate safeguards through access to full and complete, expert information. However, this is being considered in line with Scottish Government policy development and funding.

1.3. Community Justice Scotland – National Restorative Justice Service

¹ Scottish Government (2021) [Trauma Informed Practice Toolkit](#)

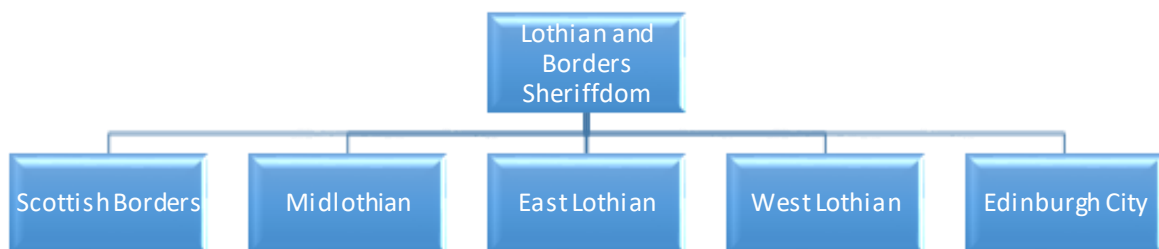
In May 2022, the Scottish Government funded Community Justice Scotland (CJS) as the national oversight body, responsible for monitoring and evaluation of restorative justice in Scotland, with the first stage being the initial test project.

The team includes a head of restorative justice, a restorative justice project lead, a restorative justice officer and an administrative officer. CJS will work in partnership with the Children and Young Person's Centre for Justice (CYCJ) and Thriving Survivors who were funded in May 2022 to develop and provide a national service for restorative justice and sexual harm.

1.3.1 Sheriffdom Lothian and Borders – Initial Test Project

In 2021, a survey was submitted to the restorative justice stakeholder group, asking members to detail their first and second choice for the Sheriffdom area to begin the initial test project. The Lothian and Borders was the most popular choice and reasons for this included, the ability to test on rural and urban landscapes and Edinburgh City's established restorative justice service for hate crime. The flowchart below details the structure of the Sheriffdom – Lothian and Borders.

Flow chat 1. Sheriffdom Lothian and Borders and Related Local Authorities



The initial test project serves the purpose of trialling and testing the proposed model of delivery of restorative justice for Scotland, among other elements, such as, the codes of practice for adults, children and young people, resource toolkits, referral pathways, training development, risk assessment, wrap-around support planning and information sharing agreements. The initial test project will evaluate the success of this development of restorative justice provision in the Lothian and Borders area and provide recommendations for expansion across the remaining five Sheriffdom areas in Scotland.

2. Aim and Method

2.1. Aims of Mapping Exercise

One of the first tasks of the initial test project is to complete a mapping exercise of the Sheriffdom area – Lothian and Borders.

In 2020, researchers Maglione, Buchan and Robertson completed a Scotland-wide mapping exercise on the local provision of restorative justice in Scotland. ² Results evidenced that restorative justice provision was ‘patchy’ and is currently delivered in twelve of out of thirty-two local authorities. Restorative justice in Scotland is commonly used to address youth related crime and delivered largely by third sector organisations, such as Sacro and some local authority youth justice teams. Adult provision was minimal, detailing two services in Scotland. Overall, the research evidenced Scotland's inability to satisfying the vision of the action plan with current service provision.

The mapping exercised aimed to provide a current, more detailed picture of the Sheriffdom – Lothian and Borders in relation to restorative justice provision and opportunities for development. The mapping exercise aimed to establish the detail in table 1.

Table 1: Aims of Mapping Exercise

	Mapping Aims
1	Current restorative justice provision
2	Current restorative justice developments and opportunities to expand
3	Local needs, barriers, benefits and visions in relation to restorative justice provision and development

2.2. Method

2.2.1. Mapping Questionnaire

The questionnaire was compiled by CJS restorative justice team and signed off by the restorative justice project group. The questionnaire was compiled on Survey Monkey and included background information, instructions, a definition of restorative justice ³ and included access to Scotland's animation of restorative justice. ⁴ The questionnaire comprised of sixteen closed and open ended questions. The questionnaire can be accessed in appendix two.

The questionnaire was disseminated by CJS via email to CJP and CPP leads for completion and wider dissemination to relevant local contacts. Additional contacts in the Lothian and Borders area were contacted, including Sacro, VAW, HMP Edinburgh and Addiewell, the AIM project and Includem. The email invite included a

² [Maglione, G. Buchan, J. & Robertson, L \(2020\). The Local Provision of Restorative Justice in Scotland](#)

³ “Restorative justice is a process of independent, facilitated contact, which supports constructive dialogue between a victim and a person who has harmed (whether this be an adult, a child, a young person or a representative of a corporate or other body) arising from an offence or alleged offence.” [Guidance for the Delivery of Restorative Justice in Scotland \(www.gov.scot\)](#)

⁴ [Restorative Justice in Scotland - Animation](#)

link to the restorative justice action plan and the proposed delivery model. This email can be accessed in appendix three.

The questionnaire asked respondents to include their contact details and designations to ensure information could be aligned to the local authority area and/or service; this allowed opportunities for further consultations. The questionnaire was live from the 26th of April – 6th of June 22. This included two email reminders over the time period and additional guidance following a meeting with Justice Social Work Senior Management.

2.2.2. Mapping Online Consultations

Following closure of the questionnaire, a series of consultation dates were offered through a doodle pool. Dates are detailed in table 2 and were disseminated in the same format as the questionnaire, but also included direct invites to respondents. The dates highlighted bold in table 2 were the most convenient for the majority of consultation invites.

Table 2: Mapping Online Consultation Dates

Date	9th June	10th June	10 th June	17 th June	17th June
Time	10-11.30	10-11.30	1-2.30	11.30-1	2-3.30

The online consultations served the purpose of providing a platform for further discussion, questions and exploration into the mapping exercise. The initial outcomes of the mapping questionnaire were compiled into a power point slide with set questions, but attendees were asked to bring questions to the consultations. The power point slides can be accessed in appendix four.

Minutes were taken at each consultation event and attendees were encouraged to use the chat function. The slides were circulated after the consultation meetings to allow attendees an opportunity to reflect on the material and provide responses via email.

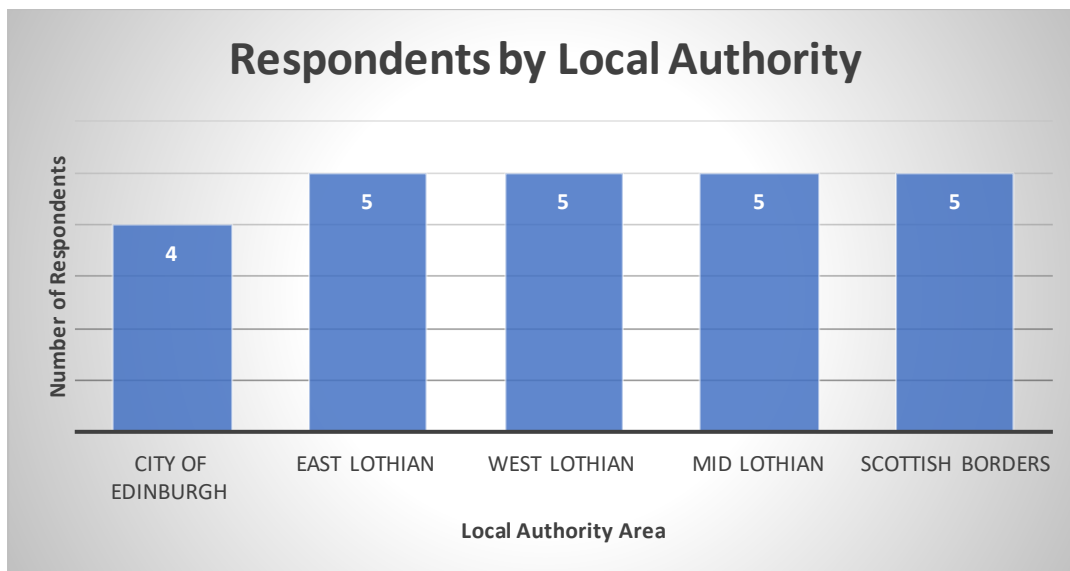
A selection of online consultation dates separate to table 2 were offered to Violence Against Women (VAW) leads in the Sheriffdom area. However, due to annual leave, commitments and clarity around the role of VAW in the initial test project, it was decided that these dates would be cancelled and rescheduled, for a more suitable time.

3. Results

3.1. Questionnaire Respondents

A wide range of community justice partners across the Sheriffdom – Lothian and Borders completed the questionnaire. Graph 1 displays the number of respondents per local authority area.

Graph 1: Questionnaire Respondents per Local Authority



The total number of respondents was 11, with one being completed by 3 partners. Graph 1 displays 24 respondents, but this is due to many currently working, or having the ability to work across numerous local authority areas. Respondents were:

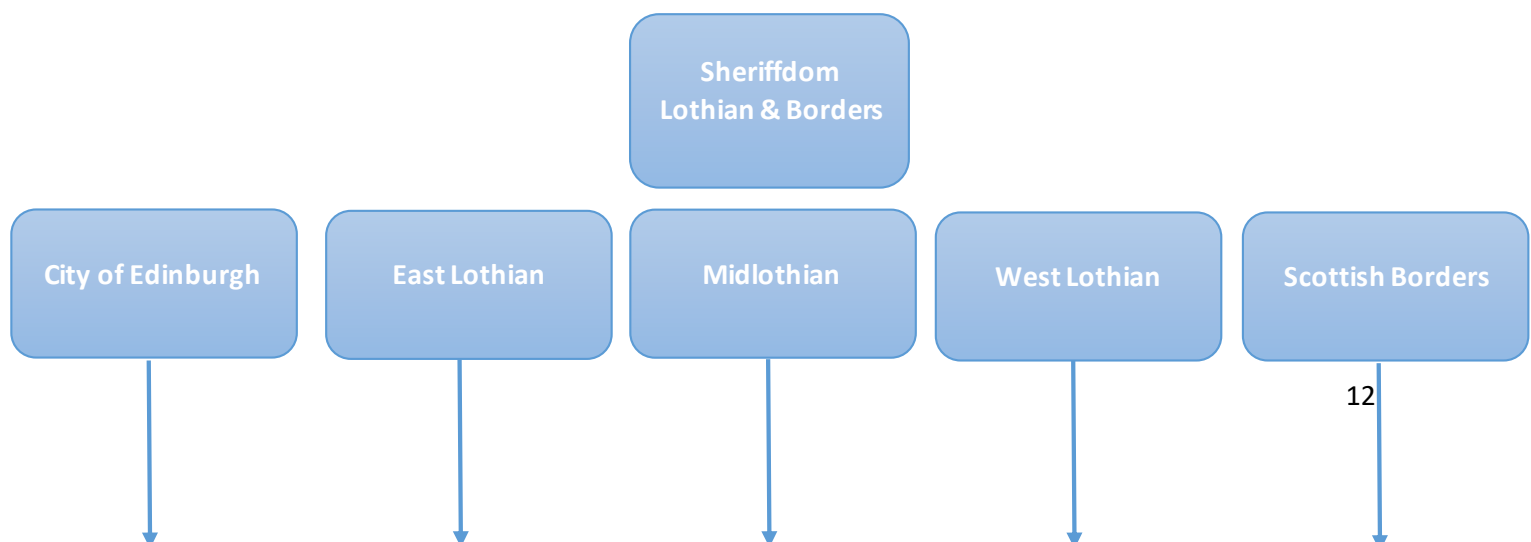
- Police Scotland
- Thriving Survivors
- Violence Against Women Lead
- Victim Support Scotland
- Sacro
- Community Justice Partnership Leads
- Social Work

3.2. Current Availability of Restorative Justice

Respondents were asked to confirm if there was current delivery of restorative justice in their Local Authority, applicable criteria and whether their service was offered to adults, children and young people. This is displayed in flow chart 2.

The report from this section onward will incorporate the consultation results where appropriate, but the majority of these results can be found in section [3.4. General Restorative Justice and Development Needs](#).

Flow chart 2: Current Availability of Restorative Justice





Restorative justice is available in three Local Authorities. Each will be described in turn below. East and West Lothian have no restorative justice availability. Although Thriving Survivors recently funded service is available Scotland wide for sexual harm, this is under development and will commence facilitation of cases in 2023/24. When asked about demand and cost, only Edinburgh's restorative justice hate crime service was able to provide information.

City of Edinburgh

Edinburgh Justice Social Work, in partnership with Police Scotland offer a restorative justice service for hate crime. This service has referral criteria and individuals must be 18 years and above and be subject to a Community Payback Order (CPO) for a conviction of hate crime. The service staffs one facilitator (Social Worker) and Police Scotland staff two facilitators who are all trained in the CJS – Restorative Justice and Hate Crime (for justice workers) course. Restorative justice delivery can be offered directly (e.g. face to face meeting), indirectly (e.g. letter contact) and through a restorative approach, or practice (e.g. victim empathy work).

Edinburgh were able to offer some information on demand, advising that cases have been 'low,' but demand is beginning to increase. Edinburgh were unable to confirm exact costs for restorative justice provision. This is because they are paid per CPO, due to their statutory requirement. They were able to advise that restorative justice delivery is 'resource intensive,' confirming that some cases equate to four – five hours for preparation time, not including the meeting and follow up support. Preparatory work with the person harmed is led by Police Scotland and co-facilitation with Justice Social Work takes place, with any related services (e.g. Victim Support Scotland), when required.

Edinburgh Young People's team have restorative justice, while they do not have an official referral pathway, they seek to raise awareness of restorative justice provision through many formats, for example, the Children's Hearing and Early and Effective Intervention (EEI) approach.

Mid Lothian

Mid Lothian Justice Social Work offer restorative justice delivery for adults using direct and indirect methods. They staff one facilitator who is trained in CJS – Restorative

Justice and Hate Crime (for justice workers) course and have recently recruited a second facilitator, both facilitators will complete Thriving Survivors levelled training and partnership to co-facilitate cases.

Scottish Borders

Scottish Borders Youth Justice Social Work service has been running a restorative approach service for children and young people for approximately 20 years. This is part of their Offence Resolution Programme (ORP). It is an early intervention option that Police Scotland and the Scottish Children's Reporter Administrator can refer to.

ORP consists of two cognitive behaviour sessions, focussing on consequential thinking and victim empathy. These modules are considered restorative approaches. A visit to a local police station used to take place pre COVID-19 and there are plans to reinstate this. The service aims to work towards a restorative justice outcome, such as a face to face meeting with the person harmed.

3.3. Current and To-Be Trained Restorative Justice Facilitators

Respondents were asked to confirm if they had trained facilitators and related detail. This information is too complex to display in a graph or table, therefore is discussed under each service heading.

When asked if there was any interest in being trained as a facilitator, the following were mentioned:

- An individual from Victim Support Scotland
- East Lothian - Youth justice Senior Practitioner and Third Sector Partners

The Community Justice Partnership Network, involving Scotland's Local Authorities and associated Peer Network can be used as a means of promoting anything related to restorative justice, including training.

Sacro

Sacro do not currently offer restorative justice delivery in the Sheriffdom area, but have ten facilitators trained in Sacro's restorative skills course who reside and have the ability to travel around the area. However, this includes a cost per hour and concluded cost per case.

Sacro can facilitate cases for adults and children and have the ability to complete 'sensitive and complex' cases, but advised that additional training is required (for example) in cases that involve of domestic abuse and risks such as coercive control and power dynamics.

Thriving Survivors

Thriving Survivors have recruited two part-time restorative justice facilitators and an assistant available to work Scotland-wide. Thriving Survivors advertised for a restorative justice 'flying squad,' which is a pool of self-employed restorative justice facilitators

that will work Scotland-wide. Thriving Survivors received six applicants and are due to commence interviews in July 22.

All facilitators are due to commence an intensive training programme between August and October 22. This includes:

- Foundational module delivered by Professor Tim Chapman
- Intermediate module delivered by CJS
- Advanced module delivered by CJS
- Specialist module delivered by Edinburgh Napier University and international trainers who specialise in sexual violence
- Trauma informed training – additional module
- Domestic abuse – additional module

Police Scotland

As mentioned above, Police Scotland have two trained facilitators in their Edinburgh division who work in partnership with Edinburgh's hate crime service, trained in CJS – Restorative Justice and Hate Crime (for justice workers) course.

In addition, Police Scotland confirmed they have ten trained facilitators, eight who operate in Mid Lothian. It is unclear from the survey response where the remaining two facilitators operate from. Facilitators are trained in Safer Communities – Restorative Justice for Practitioners (Police Scotland 2019 onwards).

Police Scotland confirmed that although they have trained facilitators, the required processes are not in place to offer restorative justice.

Justice Social Work

As mentioned above, Edinburgh has one facilitator trained in CJS – Restorative Justice and Hate Crime (for justice workers) course. They have enrolled ten Social Workers to CJS – Restorative Justice and Hate Crime (for justice workers) course, in July 2022.

Mid Lothian have one facilitator who is trained in CJS – Restorative Justice and Hate Crime (for justice workers) course and have recently recruited a second facilitator.

East Lothian have two trained facilitators in Sacro's restorative skills course and University of Strathclyde (Tim Chapman) Restorative Justice & Practices: Essential Skills Course.

Youth Justice Social Work

As mentioned above, Scottish Borders have three facilitators trained in CJS – Restorative Justice and Hate Crime (for justice workers) course.

Edinburgh have two facilitators in their Young People's service and two facilitators in their Family Group Decision Making service trained in University of Strathclyde (Tim Chapman) Restorative Justice & Practices: Essential Skills Course.

3.4. General Restorative Justice and Development Needs

This section of the results presents respondents views in relation to general aspect of restorative justice, including its benefits, limitations and views in relation to the local development and their vision and local needs. This includes data from the mapping questionnaire and the online consultations.

Local Restorative Justice Vision

Questionnaire respondents were asked to detail how they envisage restorative justice in their area. A common theme was the flexibility of restorative justice models, with suggestions being in favour of a single point of contact for the coordination of Sheriffdom referrals.

'A hub responsible for each Sheriffdom area, which filters out restorative justice referrals to providers makes sense.'

Further detail was provided, suggesting the development of models for sexual harm, gender based violence, adults and children and young people in keeping with the varying justice processes, ensuring a multiagency approach is utilised for children and young people and the feasibility of partnership models.

'two different models that are reflective of the needs of adults and children...different visions for youth and adults services...from an youth justice perspective, the preference if for restorative justice to be delivered by the youth justice service, using a multi-agency approach.'

'Development of restorative justice in Midlothian [is predicted] to focus on cases of sexual harm in partnership with Thriving Survivors.'

Two respondents envisaged that a commissioning or tendering process could be utilised to provide the required resource and clarity on who will facilitate restorative justice. To note, the first quote referring to commissioning services is not within the remit of CJS.

'There is no specific resource and we envisage CJS will commission something that partnerships can use across the 32 local authorities'

'Whether this be a tendering process to decide who does this, either solely or through a partnership of different organisations...'

Further discussion through the consultation exercises showed interest from respondents in relation to enhancing the role of 3rd sector.

'Services for adults would need to start from scratch and consider commissioning services like the 3rd sector'

'We need to enhance 3rd sector engagement and ease the pressure on statutory organisations.'

However, it is important to note that existing services are keen to develop (in line with the initial test project) and noted the important factor of ensuring consistency across Scotland.

'We wouldn't want to lose the service we have developed over 20 years, but develop it in line with the initial test project. We need to see what works and not lose sight of that. Consistency and continuity is key, irrespective of who delivers.'

Respondents envisaged restorative justice to be trauma informed and include consultation with people who have lived experience.

'To be trauma informed, with a gendered lens'

'I would like restorative justice to be made available to anyone who wishes to access it, regardless of crime type. Lived experience should be at the heart of any development to ensure that the services are trauma informed and are responsive to [their] needs. Full support should be given to all parties.'

Some respondents are focussed on specific restorative justice provision in relation to:

- Restorative Justice and sexual harm
- Restorative justice and hate crime
- Restorative Justice for young people – Police Concern Hub

Local Restorative Justice Benefits: Adults and Children and Young People

A common theme for adults and children and young people in relation to the benefits of restorative justice focussed on the person harmed and what they could gain from the process. This included having their voice heard, being empowered, facilitating recovery from trauma and providing choice. The benefits are consistent with research⁵ and echo trauma informed principles,⁶ providing a deeper understanding as to how restorative justice and trauma informed practice are interrelated by the same underpinning ethos and value base.

'For the [person harmed]...it would help recovery and trauma.'

'Anything that gives women a choice and allows them to take back control is certainly a positive thing, as long as it's done in a safe and considered way and at the [persons harmed] pace. Also having the choice to stop the process at any point if it is identified that the [person responsible] is using the process to continue abuse.'

'Promoting survivor recovery in allowing [them] to decide what is right for their own recovery. A large proportion of individuals involved in the justice system often feel let down by the court process, particularly survivors of harm. We believe restorative justice can support people to feel listened to and allow them the opportunity to process what has happened.'

'Persons who have been affected by harm will have greater choice in how they experience justice.'

However, these benefits were mentioned more frequently in relation to adults. For children and young people, the benefits focussed more on the person responsible for harm and the wider family. This information is in the next heading: Children and Young People.

For adults who have caused harm, benefits were highlighted in relation to reducing offending, providing opportunities to take responsibility for their actions and understating the impact of their behaviour.

⁵ Scottish Government (2019) [Uses of Restorative Justice: Rapid Evidence Review](#)

⁶ Scottish Government (2021) [Trauma Informed Practice Toolkit](#)

'A pathway for [people responsible] to understand the impact of their behaviour on others.'

'Those who have caused harm will have the opportunity to take responsibility for their actions'

'Allow [persons responsible] to move on and away from offending.'

Children and Young People

For restorative justice benefits relating to children and young people, respondents answers were largely focussed around the ability to provide an intervention that offered opportunities to learn the impact and consequences of their actions on individuals, acting as an early and preventative approach, building resilience and empathy. This suggests care plans for young people accessing restorative justice should be underpinned by outcomes that achieve sustainable change and early interventions.

'A good early intervention tool and may prevent people getting further into the justice system.'

'Help young people appreciate the real-life consequences of their actions and help divert them away from crime'

'Young people need opportunities to learn from experience and restorative justice can offer insight into the impact that harm can cause others. This will build resilience and empathy.'

Another common theme was utilising a 'whole family approach' and the wider impact on families in relation to repairing harm. One respondent explains this in cases of sibling sexual abuse. This alludes to restorative family group conferencing which will be offered as part of Thriving Survivors sexual harm service and can be explored through additional referral pathways for children and young people.

'Practitioners have been utilising restorative values and tools whilst supporting cases of sibling sexual abuse. In some instances...it may be appropriate to repair relationships within the family – restorative justice skills can be used in achieving this.'

Restorative Justice Development: Local Needs and Barriers

Questionnaire respondents were asked about their local needs and existing barriers to restorative justice development in their area. For many, what was needed was also identified as the barrier; therefore, these outcomes will be discussed in this section under a number of headings.

Resource and Funding

Resources and funding was a common theme among respondents. There are real concerns around the limited funding made available to satisfy the vision of the action plan in the timescales allocated. Services simply state that they have limited, or no capacity to develop restorative justice services without the necessary funding and clarity from the Scottish Government.

'It is unlikely that an existing resource will have the capacity to pick up this role.'

'Resources over time, especially if demand increases'

'This needs to be...a separate discussion with senior management team. There are real challenges around how we would find the officers / staff to bring this approach forward across 4 local authorities in a short timescale.'

Many respondents noted the issues associated with year on year funding and its impact on recruitment. Issues were highlighted specifically to recruitment of social workers, highlighting the need to utilise third sector provision to build on capacity and promote the inclusion of self-referral mechanisms in-keeping with people accessing restorative justice at a time suitable to them.

'We need a minimum of 3 years funding to make any effect. 1st year will be development, [including] recruitment, procedures etc.'

'From a social work point of view, it's hard to recruit social workers and we need to prioritise 'high risk' work, and this limits our ability to concentrate on early intervention, which is where restorative justice sits in our service.'

'Resources are also an issue, without clarity of funding it makes longer term planning difficult. It also causes issues with recruitment.'

Training: A Levelled Approach

Training was another common theme with respondents commenting on some form of levelled approach to cover general restorative justice provision, specialisms for sensitive and complex cases and training in trauma informed practice. Respondents highlighted the importance for training to be reviewed and in line with guidance and on-going developments. Negativities were highlighted in relation to releasing staff for training purposes and its impact on front line service delivery.

'I think at a very basic level some training, but when putting it into practice, funding would need to be made available to properly resource services and ensure specialist knowledge of violence against women and girls was available.'

'Domestic abuse and sexual harm are two separate areas and the frustration at the moment is the violence against women network are being more involved in sexual harm, and this is not their expertise. Use of NOTA as this is their area of expertise. We need to have the right systems to look at various elements and allows domestic abuse that includes sexual harm.'

'Significant training is needed to ensure the high quality and safe services are being delivered across Scotland. We have created a four stage training programme that will take people from having a basic understanding of restorative justice to becoming highly specialised facilitators, to ensure sensitive and complex cases are handled correctly and in a trauma informed way.'

'The training for restorative justice is resource intensive as it is 4 days and training 10 people equates to 40 'lost' working days.'

'An understanding of trauma is key to delivering services...including how trauma, restorative justice and hate crime fit together.'

'Re-traumatisation is a huge concern, regardless of the service and who facilitates – the quality and standards of the training are key.'

Information Sharing and Data Recording

The issues surrounding General Data Protection Regulations (GDPR) is a key concern for respondents. This is in relation to the need for consent, information sharing agreements and consideration given to the complexity of achieving this. In addition, a concern for many respondents is data recording, especially in relation to holding details on the person harmed when they are not open to their service. Restorative justice services in England and Wales implement case management systems to combat this issue, for example [My.RJ](#).

'An information sharing agreement is required – [the] Caledonian [System] is an example. Where do we store the victims details? We can engage with someone (e.g. a victim in a different local authority), but there isn't the mechanisms to store and record the data. This poses challenges and we wouldn't be recording information twice.'

'Where do local authorities record details on [person harmed]?'

'There will be barriers to GDPR in the area, particularly with it being an entire Sheriffdom. Each individual local authority has their own GDPR agreements and ways of working, meaning there may need to be a separate GDPR agreements in each local authority area to make up the Sheriffdom.'

Referral pathways

Gaining clarity on referral pathways was a key aspect of discussion through the consultation meetings. Respondents were unclear on referral pathways, especially when self-referrals are person harmed initiated. The general concern is that current services are not set up to take self-referrals. Concerns were also raised on referrals being made by persons responsible and how that would work in practice. One service is very specific on taking referrals only from the person harmed; highlighting the importance of clear policy in this area.

'It's unclear how [person harmed] referrals would work?'

'[We are] concerned around [person harmed] initiated referrals – how does this work and what does it look like?'

'We will only take referrals from those who have been affected by harm; however, there is still a lot that needs to be made clear to us as an organisation on what the limitations may be... we need policy so we can move forward, until that...no one really knows or understands this work.'

Awareness, Understanding and Effective Partnership Working

The last drawbacks highlighted focus on awareness and understanding of restorative justice. Effective communication and partnership working was also highlighted as an area for improvement in ensuring local needs are included in the on-going development of the initial test project. It was suggested that a Sheriffdom restorative justice development group is set up to facilitate improvement in this area.

'Public perception could also be a barrier. It's important to have an awareness raising campaign in the areas and nationally, so people are aware of the benefits and voluntary nature of restorative justice.'

'There is a lack of organisational buy in and this is causing significant delay, we need people to come together and collaborate...there are issues with communication and a lack of [role] clarity.'

'We need an opportunity to feedback on the [Sheriffdom Proposal Paper] to make local implementation easier.'

'Participation, communication and engagement has been some of the main issues in terms of starting the test site project. Need to review how we improve this, especially for local areas. Some of the responsibility has been the Scottish Government and lack of clarity around capacity and resource...[We] need a Sheriffdom development group...to discuss the issues above.'

'We need a regular development group.'

4. Additional Information and Discussion

Restorative justice in the Lothian and Borders is sporadic. It is largely available at certain points of the justice system, and largely a social work provision for adults and young people.

Current restorative justice provision is dictated by justice outcomes and strict referral criteria. For example, the Edinburgh hate crime service is person harmed initiated and requires the individuals to be on a CPO for a hate crime offence, aged 18 years and above. While this provides a specialist service for a sensitive and complex harm type, this closes the door on many persons harmed by hate crime who may wish to access a service under certain circumstances, such as the individual did not receive a CPO or the person harmed chose not to report the crime and so on.

Thriving Survivors are able to facilitate self-referral cases for sexual harm, which is more in-keeping with the vision of the action plan, in that individuals can access at a time that is suitable to them. However, this is limited to sexual harm, but the training package does provide a levelled approach in-keeping with local partners needs in relation to this training approach.

While there are available facilitators across the Lothian and Borders area, they are at full capacity and require funding and resource to develop and provide restorative justice services. For example, Sacro can provide facilitators across the Sheriffdom area, but this comes at a cost and they require further training in specialist and complex cases (e.g. domestic abuse); therefore cannot provide restorative justice in all harm types. A VSS staff member is attending training, but further exploration on service need in relation to resource to facilitate cases is required.

The main conclusion from the mapping exercise is the Sheriffdom area is not currently set up to provide restorative justice services in-keeping with the vision of the action plan. This requires a number of elements to satisfy this vision and are presented as recommendations below.

4.1. Lessons Learned from Other Countries Developing Restorative Justice

Learning and advice can be taken from other countries developing restorative justice, although, research in this area is limited. This will be mentioned briefly, with links to papers for further reading.

Shapland, Atkinson, Colledge, Dignan, Howes, Johnstone, Pennant, Robinson and Sorsby (2004) ⁷ published a paper on the evaluation of three restorative justice schemes in England and Wales, highlighting many challenges. The first involved 'achieving referrals' and the requirement for policy, guidelines and procedures to be in place to determine how restorative justice operates alongside the justice system. Shapland et al (2004) argued that due to the nature and culture of justice systems, it is significantly challenging for new service provision to be quickly established. Information sharing was a challenge in relation to obtaining victim details. This was made easier for police based restorative justice services, providing evidence for the consideration of restorative justice coordinators that sit within Police Scotland; an agreement made by the restorative justice stakeholder group in 2020 following the Gloucestershire model.

The authors also highlighted that when restorative justice is being 'piloted' while other national initiatives are at play, this will also pose significant challenges. The publication of the Scottish government's (2022) ⁸ Vision for Justice details an ambitious timeline of initiatives during a recently announced five year spending freeze. ⁹ The three restorative justice schemes found the following factors helpful in maintaining referrals:

- Relationship building with relevant agencies
- Effective protocols with relevant agencies
- Developing and maintaining positive working relationships and service provision
- Having a good number of cases at the beginning

Shapland et al (2004) talk about the importance of getting and remaining 'noticed' and linked this to the lengthy cultural shift that restorative justice requires to become an embedded and trusted service provision. The authors highlight the difficulties in the establishment of restorative justice 3rd sector schemes, as they have no statutory footing. Lastly, many restorative justice schemes lacked the skills and knowledge to work directly with persons harmed and this further limited referral pathways. This provides some argument towards developing restorative justice services in organisations that support persons harmed as the lead, in partnership with justice agencies.

Shapland et al (2004) provide the following guidance on setting up restorative justice schemes to stand any chance of success:

- Providing the necessary time for planning, development (e.g. processes) and working 'on the ground' getting to know relevant agencies
- Providing the necessary funding i.e. 24-30 months – short term funding is criticised for the following reasons:
 - Limited buy-in from partnership services
 - Only time for development work

Many of these limitations are echoed in an article by Mikhail Lyubansky from the United States in relation to setting up and maintaining restorative approaches in

⁷ Shapland et al (2004) [Implementing Restorative Justice Schemes](#)

⁸ Scottish Government (2022) [The Vision for Justice in Scotland](#)

⁹ Scottish Government (2022) [Investing in Scotland's Future: Resource Spending Review](#)

school settings¹⁰ and England and Wales restorative justice all party parliamentary group inquiry into restorative practices in 2021/22.¹¹

Recent research in Scotland produced similar challenges and recommendations to ensure the vision of the action plan is met by 2023;¹²¹³ these include:

- Limited and unsustainable funding, recommending adequate and long-term funding to allow services the appropriate time to develop, deliver and evaluate
- GDPR and information sharing and its impact on reducing referrals; authors recommend attempting to draft a national information sharing template and set up effective protocols between police and restorative justice services
- Regular awareness raising of restorative justice targeting justice and victim services and members of the public
- Development of training standards and accredited training programmes
- Development of legislation to put a duty on related community justice partners to ensure people are aware of restorative justice, how to enquire and access a service
- Development of specialised restorative justice programmes for cases considered sensitive and complex

A recent consultation asking survivors of domestic and sexual abuse their opinions on restorative justice provided a number of recommendations in relation to service design¹⁴:

- Trauma and its impact on survivors must be considered at all times when developing and offering restorative justice services
- Understanding the context of power imbalances dynamics and coercive control in domestic and sexual abuse is of paramount importance and should be addressed as a means of producing best practice for restorative justice

5. Limitations

This section of the report details associated limitations of the mapping exercise:

- Due to timescales and competing demands, some local partners were unable to complete the mapping exercise, therefore this may not provide the full picture of restorative justice in the Lothian and Borders.
- The mapping questionnaire may have missed essential respondents and this transpired after the data collection period was completed. In order to rectify this, restorative justice mailing lists in the Sheriffdom area will be set up and national mailing lists.
- A lack of clarity from the Scottish government on funding, resource, roles and responsibilities etc. could have contributed to apathy in relation to engaging

¹⁰ Mikhail Lyubansky (2021) [how to keep your restorative justice program from failing](#)

¹¹ APPG (2021/22) [Inquiry into Restorative Practices 2021/22](#)

¹² Tania Nascimento (2021) [How can Restorative Practice become more embedded in Scotland?](#)

¹³ Magilone, Buchan & Robertson (2020) [The Local Provision of Restorative Justice in Scotland](#)

¹⁴ Moore, Keenan, Moss & Scotland (2021) [Survivors' Voices - National Consultation on Restorative Justice](#)

with the mapping exercise or confusion due to lack of clarity and understanding. The Scottish Government has previously attempted to roll out restorative justice across Scotland and this failed due to insufficient funding and resource.

- Limitations associated with the questionnaire, including over-reliance on self-reported data, and the possibility that participants provided answers to produce a socially desirable response
- While online consultations have benefits in promoting attendance over 5 local authority areas, there are limitations associated with online platforms, including dominant strong voices

6. Recommendations

This section details recommendations for the initial test project to consider in the Lothian and Borders area. Attempts have been made to organise these in stages.

Stage 1:

- A restorative justice package that includes development (where appropriate) and clarity on policy, guidance, training quality standards and accompanying codes of practice documents for adults and children and young people
- Set up a Sheriffdom restorative justice development group and sub groups, as required and how this links to Thriving Survivors working groups to avoid duplication
- Development of a Sheriffdom VAW sub-group to fulfil the VAWG roundtable (2021) action plan and the issues around role clarity of VAW in the initial test project
- Development of effective feedback streams using communication and participation agreements
- Clarification on Scotland's training model
- Clarification on funding and resource and considerations to associated risk to sustainability of restorative justice development and service provision; consideration to commissioning and tendering of restorative justice service for local authorities
- Further development and revision of Scotland's delivery model, including the restorative justice intervention model
- Development of a logic model and accompanying monitoring and outcome framework, project plan and associated action plans
- Consideration to the purpose and feasibility of a restorative justice coordinator situated in Police Scotland
- Improve participation and engagement with lived experience groups including types of harm and what restorative approach would suit them and consideration to the stage of the case and disposal type.
- Raising awareness of restorative justice service development / provision and development of a communication and awareness package aimed at local partners and services

Stage 2:

- Local consultation on the referral pathway model and restorative justice intervention model and any further development on the model of restorative justice delivery once the Scottish Government has clarified funding, resource and published restorative justice policy.
- Series of awareness raising events in partnership with Thriving Survivors and associated partners aimed at referring practitioners, communities and members of the public
- Development of appropriate information sharing processes within the Sheriffdom
- Establish and test referral and information sharing pathways
- Raising awareness of restorative justice service provision and development of a communication and awareness package aimed at members of the public
- Development of a restorative justice resource pack, or updated toolkit that incorporates new developments

The large majority of these tasks are reliant on clarity from the Scottish Government on funding, resource, policy development role clarity and timescale extension to support the initial test project to fulfil its assigned task.

Appendences

Appendix 1: Levelled Intervention Restorative Justice Intervention



RJ levels, methods
and definitions V1 DR

Appendix 2: Mapping Questionnaire



Restorative Justice
Scotland Mapping Exe

Appendix 3: Email to CJP and CPP leads – invite to complete and disseminate mapping questionnaire



Mapping
Questionnaire Email t

Appendix 4: Mapping Online Consultation Power Point Slides



Restorative Justice -
Mapping Consultator