

# RESTORATIVE JUSTICE FOR YOUNG ADULTS

Factoring in Maturity and Facilitating Desistance

IAN MARDER



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## Barrow Cadbury Trust



The Barrow Cadbury Trust is an independent, charitable foundation, committed to supporting vulnerable and marginalised people in society. The Trust provides grants to grassroots voluntary and community groups working in deprived communities in the UK, with a focus on Birmingham and the Black Country. It also works with researchers, think tanks and government, often in partnership with other grant-makers, seeking to overcome the structural barriers to a more just and equal society.

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## The Transition to Adulthood Alliance



The Restorative Justice Council has produced this report on behalf of the Transition to Adulthood (T2A) Alliance, which evidences and promotes effective approaches for young adults throughout the criminal justice process. T2A is a coalition of twelve of the leading criminal justice, health and youth organisations, convened by the Barrow Cadbury Trust. As a whole, the T2A programme of work encompasses research, policy development and practical demonstration, and makes a strong case for significant reform.

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## Restorative Justice Council



The Restorative Justice Council is the independent charity and membership body for restorative justice in England and Wales. Our members are training providers, registered practitioners, supporters and restorative justice providers, such as police forces, YOTs, probation services, prisons, mediation services, local authorities, schools and neighbourhood justice panels. We provide the national voice for restorative practice, quality assurance of training and individual practice and service provision. On behalf of our members, the RJC co-chairs the Restorative Justice Implementation Board within the Ministry of Justice.

## Foreword



**Restorative justice (RJ) brings victims and offenders together and provides an opportunity to begin repairing the harm caused by crime.**

The victim can ask for an explanation and may receive an apology. Questions may be answered; anxieties calmed.

Offenders have to look at their behaviour through the eyes of those they have hurt. It can be a very uncomfortable experience.

This Restorative Justice Council report is a timely examination of the impact that RJ can have on young adult offenders. The last thing that many of them may want to do is explain and take seriously their own personal involvement in particular crimes, but it is vital that they do so if they are to change course. RJ can help them mature and move on.

Restorative justice can give young adults fresh insights into the way they make decisions and reinforce the need for them to take control of their own behaviour. It can strengthen their relationships with family and friends and promote a renewed sense of respect for other people.

The evidence and case studies in this report provide a clear indication that RJ is not a soft option but can make a real difference in cutting crime and rebuilding lives. In one case study, a young adult offender describes prison as “running away”, whilst acknowledging that he found the intensity of a restorative conference “scary”.

Ian Marder’s conclusions should give policy makers and RJ practitioners the confidence to press the case for restorative justice in order to ensure that this unique and effective response to crime and the needs of victims moves ever closer to the mainstream of our criminal justice system.

**Rt. Hon. Paul Goggins MP**  
**Co-Chair of the All-Party Parliamentary Group on Penal Affairs**



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## Executive Summary

This report was written by the Restorative Justice Council on behalf of the Barrow Cadbury Trust and the Transition to Adulthood Alliance. Drawing on primary evidence in the form of interviews with criminal justice practitioners and young adult offenders, as well as the existing literature, the aim of this report is to broaden our understanding of how restorative justice can be used with young adults (both victims and offenders) throughout the criminal justice process, considering the relevance of the maturation process, its implications for restorative practitioners working with this age group, and why restorative justice might be effective at encouraging desistance from crime.

### *The main findings are as follows:*

- Although technically considered to be adults, victims and offenders between the ages of 18 and 25 may not be fully mature. This has many implications for restorative practice, of which facilitators and other criminal justice professionals must be aware;
- There are a number of theoretically- and empirically-informed ways in which participation in a restorative process might encourage desistance and otherwise have a significant impact on young adult offenders. For example, it can be argued that it helps to develop a sense of personal responsibility and self-efficacy, is conducive to the building of social bonds and attachments and encourages compliance by being perceived by participant offenders to be more procedurally-just than court-based processes. Depending on the offender, restorative justice might either instigate the desistance process or provide additional motivation for those who have already chosen or begun to desist;
- It is possible for service managers to integrate restorative practices into their work with 18-25 year old victims and offenders at any stage of the criminal justice process.

### *The key recommendations are as follows:*

- Restorative justice should be offered to all victims irrespective of the age of the offender;
- Restorative practitioners who work with young adults should be aware of the practice implications of a lack of maturity;
- Restorative practice should be used to develop maturity and facilitate desistance among young adults who offend.

*The author would like to thank everyone who contributed towards this research for their time and effort.*

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# 1. Introduction

*“It is easier to say, ‘well, I did my burglary at 3 in the morning, went in and went out, got caught, fair cop, done my time, now I am getting on with my life and nothing really has changed’. The difference comes when there has been a meeting with a victim because it opens up a young person’s emotions regarding the real impact of what they’ve done. Emotionally, restorative justice forces them, albeit through a voluntary process, to accept that their actions have had a real impact on another human being.” – Restorative practitioner*



**Y**oung adults are significantly over-represented in the criminal justice system, making up only 10% of the general population, but committing around a third of all recorded crime.<sup>1</sup> Furthermore, offenders from this age group account for both a third of the probation caseload and a third of those sentenced to prison each year,<sup>2</sup> while their reconviction rates within two years of leaving prison or completing a generic community sentence are as high as three-quarters and two-thirds, respectively.<sup>3</sup> Given the right intervention, however, young adults are the most likely age group to desist, but the wrong intervention at this time can slow desistance and extend the period that an individual is caught in the net of the criminal justice process.<sup>4</sup> With this in mind, as well as the immense impact of such offending and reoffending on public resources, communities and direct and indirect victims, many of whom are also young adults, it is important to explore targeted and innovative methods of responding to the harmful behaviours exhibited by some members of this age group.

Defined by the Restorative Justice Council as processes which “bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward”,<sup>5</sup> restorative practices are much more commonly employed when responding to the offending behaviour of juveniles than of adults, although their use, and certainly the support for their use, with this latter group is increasing. In 2012, the Transition to Adulthood (T2A) Alliance published a major report, *Pathways from Crime*, which identified ten points in the criminal justice process where a more rigorous and effective approach for young people in the transition to adulthood can be delivered. The section on restorative justice recommended that: “Restorative justice should be considered for all young adult offenders at all stages of the criminal justice process, including pre-arrest, pre-sentence, and as part of a sentence”,<sup>6</sup> and this research builds on this argument by exploring how restorative justice can be used with young adult victims and offenders and why it might be an effective intervention for the latter.

Herein, we examine the significance of young adults’ variable maturity to restorative practitioners who work with victims and offenders between the ages of 18 and 25, as well as the links between participation in restorative processes and desistance from crime. This is achieved by bringing together evidence from existing theoretical and empirical work by academics, governments, the T2A Alliance and other organisations, as well as being informed by qualitative data, attained through semi-structured interviews with seven restorative practitioners, four managers at T2A pilot projects and one young adult offender who had participated in a restorative process. The sample is thus not representative, being made up primarily of those who responded to an

1 T2A Alliance (2012a)

2 Prison Reform Trust (2012)

3 T2A Alliance (2012b)

4 *Ibid.*

5 Restorative Justice Council (2013)

6 T2A Alliance at n.3



interview request published on the Restorative Justice Council website and circulated by email within the Restorative Justice Council's monthly member's bulletin, and also through the use of a snowball sampling technique. It is therefore not possible to generalise from the responses received, although quotes from this research can be (and are) used to illustrate the points being made. Six of the interviews were conducted face-to-face, while the other six were conducted by telephone, and care was taken to avoid leading questions. For the practitioners and managers, the questions focused on their experiences of working and using restorative justice with young adults, while the young person was asked about their experience of participating in a series of restorative conferences with their victims upon release from prison for burglary offences.

### **This report:**

- Explains the concept of maturity and how it develops in young adults. It argues that maturity is a process, rather than an event, outlining the implications of this for restorative practitioners working with offenders and victims from this age group;
- Analyses the links between participation in a restorative process and desistance from crime, applying the existing theoretical and empirical evidence on restorative justice and desistance to young adult offenders;
- Discusses the use of restorative justice in other jurisdictions, before outlining the current provision of restorative justice for young adults in England and Wales and the variety of intervention points at which restorative practices can be utilised.

## 2. Young adults, maturity and restorative practice

### 2.1 The concept of maturity



**I**n common parlance, the term “maturity” is used to refer to a variety of different, yet overlapping processes, ranging from an individual’s physical growth, to the psychological and emotional elements of their development. This report focuses on maturity in primarily the psychological sense, using the T2A Alliance’s definition of this type of maturity: “a measure of the decision-making capacity regarded as appropriate for adults”, including the capacities to function independently, to interact adequately with others and to contribute towards social cohesion.<sup>7</sup> In the social sciences, however, maturity is seen as a “remarkably elusive and ill-defined” concept;<sup>8</sup> some authors contend that no one aspect of maturity can be considered in isolation,<sup>9</sup> while others write that definitions of maturity can depend on, and must be seen as relative to, the requirements of a given society.<sup>10</sup> Essentially, there are many different ways to define maturity depending on the context in which the term is being used, and its meaning, therefore, may vary between settings and over space and time.

*“Maturity is not necessarily dictated by a person’s age. There are so many mitigating and environmental factors that the second a young person turns eighteen or 21 they don’t necessarily become an adult... it just doesn’t work like that.”*

– Senior manager at a T2A pilot project

*“People mature at different rates. When somebody turns eighteen, there is a lot of change taking place in their lives in a very short period of time. Our lads usually come in disengaged from education and aren’t used to having all this responsibility. While they appear to be young men, many are actually nineteen going on fourteen.”*

– Service manager and restorative practitioner

*“You don’t just become mature overnight... for me, lots of people said I was mature for my age, but I realise now that that wasn’t true, it was just because I was forced to deal with adult situations from an early age.”*

– Ex-offender who, as a young adult, participated in a restorative process

In this report, we are primarily concerned with the idea that maturity is a process, rather than an event, and, more specifically, with the fact that it develops at different speeds depending on circumstances unique to the individual, including their education, home life and peer influences, among other factors. To see maturity as a factor in sentencing only in cases where juvenile offenders are involved is to ignore the fact that 18-25 year olds are not always fully mature, and that better outcomes might be achievable through a more targeted approach. In fact, there is considerable scientific evidence showing that key competences regarding maturity typically do not fully develop in the individual until between the ages of 21 and 25, including impulse control, planning, reasoning, thinking before acting, the regulation of emotions, abstract thinking, resistance to peer influence and the ability to delay gratification.<sup>11</sup> Maturity, therefore, is something which must be considered on an individual basis, and is significant and relevant to criminal justice professionals and restorative practitioners working with 18-25 year olds, who need to respond appropriately to its absence among some members of this age group.

<sup>7</sup> T2A Alliance (2011, p.3)

<sup>8</sup> Steinberg *et al.* (2009)

<sup>9</sup> Prior *et al.* (2011)

<sup>10</sup> Greenberger and Sørensen (1974)

<sup>11</sup> Farrington, Loeber and Howell (2012); Cauffman (2012); T2A Alliance (2012c)



### Box 1: Youth, young adulthood and the criminal law

Our legal system abruptly terminates access to a range of diversions and vital support services on a person's eighteenth birthday, irrespective of whether or not the individual in question has developed and matured to the extent that the additional support and use of alternative interventions, including restorative justice, are no longer justified (Woolard, 2012). This is in contrast with the approach taken in other countries, including Croatia, Germany, Italy, the Netherlands, Portugal, Romania and Sweden, which either have rules treating young adult offenders as a discrete group, or phrase their legislation in such a way that criminal justice agencies may choose to treat offenders in this age group as adults, rather than being required to do so (Lösel, 2012). In Germany, for example, young adult offenders are transferred to the jurisdiction of the juvenile court, at which point they can be sentenced as children if "a global examination of the offender's personality and of his social environment indicates that at the time of committing the crime the young adult in his moral and psychological development was like a juvenile" (Criminal Justice Alliance, 2011, p.8). This shows how flexibility can be built into the criminal law in order to allow judges and other criminal justice professionals to utilise the most responsive interventions possible depending on the maturity levels of the individual in question. A similar provision in Northern Ireland or in England and Wales could allow for existing youth conferencing provisions, such as diversionary and pre-sentence youth conferencing in Northern Ireland, or Referral Orders in England and Wales, to be extended to young adult offenders when this is deemed to be appropriate by the courts and prosecutors.

## 2.2 Using restorative practices with young adult offenders

Some 18-25 year old offenders will lack the level of maturity which is usually associated with, and assumed of, adults by the criminal law and criminal justice agencies.<sup>12</sup> Therefore, for practitioners who use restorative justice with this age group, it may be necessary to attempt to determine the extent to which each individual offender is mature, and to take this into account in the assessment, planning, execution and follow-up of the restorative process.<sup>13</sup> What follows are five key ways in which a lack of maturity among offenders from this age group might manifest itself, and some suggestions of steps which restorative practitioners might be able to take in order to circumvent any associated problems.

### 2.2.1 Chaotic lifestyles

A lack of maturity among 18-25 year old offenders might manifest itself in the form of a chaotic lifestyle. Once a person turns eighteen, they are faced with a plethora of new responsibilities (such as signing up for their own benefits and housing), yet some of the practitioners we interviewed suggested that young adult offenders often lack the necessary planning and communication skills to undertake such 'adult' tasks, possibly resulting in sporadic access to cash and accommodation. In terms of restorative practice, such a lifestyle may result in failure to turn up at a conference or a scheduled reparation which has been arranged as part of an outcome agreement.

*"Some of our young adult offenders are only just eighteen. They don't have very good communication skills and haven't learned the importance of planning, but are still expected to have responsibility for their rent, signing up with a GP and dentist, opening a bank account and registering for benefits."* – Senior manager at a T2A pilot project

<sup>12</sup> Some criminal justice agencies in England and Wales, however, are beginning to take the maturity of an offender into account. For example, the Sentencing Council guidelines for burglary now includes 'age and/or lack of maturity' as a mitigating factor where it affects the responsibility of adult offenders, while the Crown Prosecution Service's new 2013 Code of Conduct includes maturity in its list of factors for consideration in culpability decisions for adults.

<sup>13</sup> Depending on the area, young adults might be offered the chance to participate in a restorative intervention at any stage of the criminal justice process – see Section 4 of this report for more details.

When working with those young offenders whose lifestyles are characterised by poor planning, it might be useful for restorative practitioners to obtain the phone number of where the young adult is staying, which may change from week to week. Practitioners can then call or send texts to remind young adults of the date and time of a conference or scheduled reparation, arrange to pick them up, or ensure that they have the bus fare and knowledge of the bus timetables necessary to attend. In addition, the venue of any conference should be as local and easily accessible as possible, and be somewhere where the offender can feel safe and comfortable.<sup>14</sup> All such eventualities must be considered because young adult offenders who lack maturity might also lack the capacity or motivation to be proactive if something goes wrong; one practitioner we interviewed suggested that some young adult offenders who miss one meeting for whatever reason may, in the absence of significant prompting, continue not to turn up as a result of the anxiety caused by missing the first session.

### 2.2.2 Dependence on family members

Like juveniles, 18-25 year old offenders may also have a certain level of dependence on family members. However, the tendency in England and Wales to treat offenders as autonomous adults once they turn eighteen also extends to the exclusion of their families from the criminal justice process. According to one of our interviewees, criminal justice agencies too often fail to involve parents in the cases of young adults offenders, due primarily to the absence of a legal obligation to do so. This is in spite of the fact that such practice is at odds with the criminological evidence which shows the importance of family bonds in the desistance process.<sup>15</sup> As noted by Johnson *et al.*,<sup>16</sup> “the parent-child bond persists over the life-course and likely continues to inform and shape behaviour beyond adolescence” (and in fact, there is evidence to suggest that the involvement of family members in restorative processes can be extremely beneficial for offenders of all ages<sup>17</sup>).

This theme is particularly relevant in modern Britain, where the number of young adults living with their parents has grown significantly in recent years,<sup>18</sup> and seems likely to continue to grow as this age group is increasingly priced out of independent living. It may be, therefore, that there should be an even stronger presumption in favour of family member involvement in the restorative process of a young adult offender whenever possible, which would require the facilitator to make the appropriate arrangements and obtain an understanding of the dynamics of the family relationship as part of their preparation for the process.<sup>19</sup>

### 2.2.3 Low levels of emotional literacy

18-25 year olds who are still in the early stages of the maturation process may have low levels of emotional literacy, and practitioners must take this into account when preparing for and delivering restorative justice. Emotional literacy refers to a variety of capabilities, including recognising and effectively communicating one’s own emotions and empathising with others.<sup>20</sup> This might mean that conference preparation should include extensive victim awareness and victim empathy work in order to increase the offender’s cognisance of their and their victim’s emotions. One interviewee suggested that creative methods, such as storytelling, could be used in order to encourage the identification and communication of emotions, although a balance must be struck between supporting communication and the need to avoid being perceived by young adults as patronising.<sup>21</sup>

14 See Section A2(a) and Section A3(a) of the *Best Practice Guidance for Restorative Practice* for more information on choosing a venue.

15 Wright, Cullen and Miller (2001); Smith (2006); Schroeder, Giordano and Cernkovich (2010)

16 Johnson, Giordano, Manning and Longmore (2011)

17 Maxwell and Morris (2001); Karp, Sweet, Kirshenbaum and Bazemore (2004); Shapland, et al. (2006); Prichard (2008); Gerkin (2009)

18 Office for National Statistics (2011, p.786)

19 See Section A2(b), paragraphs 9-15 of the *Best Practice Guidance for Restorative Practice* for more information on involving, and preparing for the involvement of, other participants in restorative justice.

20 Steiner (1984)

21 See Sections A2(a)(3) and A3 of the *Best Practice Guidance for Restorative Practice* for more information on assessments and facilitating communication during a restorative process, respectively.

### 2.2.4 Difficulties in accepting responsibility for one's actions

Psychological research commonly posits that a lack of maturity is linked with a tendency to deny responsibility for one's own actions.<sup>22</sup> For example, an immature offender may blame others for their offence,<sup>23</sup> or contend that they themselves are the primary victim.

This particular manifestation of immaturity has significant implications for restorative practitioners who work with young people because participant victims can suffer feelings of revictimisation if, in a meeting, the offender fails to take full responsibility for their actions. Although an acceptance of responsibility is typically seen as a prerequisite of an offender's participation in restorative justice,<sup>24</sup> the ongoing acceptance of responsibility cannot be assumed by the facilitator, who must reevaluate the offender's sentiments throughout the assessment and preparatory stages of a restorative intervention: at the assessment stage, where a risk assessment is undertaken into the possibility of harm to the participants, the practitioner can consider the degree to which the offender accepts responsibility,<sup>25</sup> rather than simply utilising a polar question of whether or not the offender accepts responsibility; during preparation, practitioners should be wary of young people's ambivalence in their views and feelings, which might be especially necessary if a long period of time passes between the offender accepting responsibility for the act and the restorative process taking place. This means that the facilitator should work with the offender throughout the assessment and preparatory stages to inspire an enlightened and thorough understanding of how they are responsible and what the implications of the offence were for the victim, thus ensuring that the offender continues to accept responsibility throughout the process.

*"I think that young offenders feel that they are the victim themselves, and it is really important to get over that hurdle before moving on. In response to 'Who was affected?', all my young offenders initially say 'me'." – Restorative practitioner*

### 2.2.5 Lacking a sense of agency

In the context of human behaviour, agency can be defined as "the capacity, condition or state of acting or exerting power."<sup>26</sup> To clarify the relevance of this concept to restorative practice, it might be said that some young, immature offenders will have significant difficulties considering or implementing reparation if they do not feel that they can exert agency, that is, if they do not feel that they have control over their own lives and actions. In such cases, it would be useful for practitioners to discuss and think through possible outcome agreements with the offender during the preparatory stage, in order to convince young people that they are capable of offering something positive to the victim by helping to repair the harm done by their offence.

## 2.3 Using restorative practices with young adult victims

*"A lot of the offenders we deal with have been victims themselves, and so restorative justice is useful because if victims don't feel that they are getting justice or getting the opportunity to ask questions and have them answered, then they can become offenders because they become totally disillusioned with the system." – Restorative practitioner*

Children and young adults make up a significant part of those victimised, and this victimisation can have a significant, negative impact on the life of a young person, instilling fear, depression

22 Arnett (1998); Dolan (2004); Badger, Nelson and Barry (2006)

23 Forth, Kosson and Hare (2004); Dolan (2004)

24 Van Ness and Strong (2010)

25 See Section A2(a) of the *Best Practice Guidance for Restorative Practice* for more information on assessing and managing the risks of harm to participants during a restorative process.

26 Schwartzman (2005, p.10)

or post-traumatic stress disorder,<sup>27</sup> and even possibly increasing their own propensity to engage in offending behaviour.<sup>28</sup> It is difficult, though, to gather much reliable information about the victimisation patterns of young people from the official statistics because many crimes go unreported, while individuals under the age of sixteen are not included in the sampling frame of the British Crime Survey.

However, in each year between 2003 and 2006, the government carried out the Offending, Crime and Justice Survey, and, starting in 2004, it specifically tracked the victimisation of young people aged 10-25. A report on the most recent (2006) cohort found that 26% of this age group reported being a victim of personal theft or assault in the twelve months prior to the survey, and that while 50% of those who reported committing a crime themselves in the previous twelve months also reported being victims of a personal crime in the same period, this dropped to 19% of those who did not report committing any offences.<sup>29</sup> It seems likely, therefore, that victimisation (as well as possibly cycles of victimisation and offending) affects a significant amount of young people, and, given what we know about the potential of restorative justice to alleviate the harm done to victims,<sup>30</sup> it seems fair to argue that there should be an expansion of restorative justice so that all victims of crime, including juveniles and young adults, have the opportunity to participate. Furthermore, we know that maturity is a process which extends into young adulthood, and hence it is as important to be aware of its implications when working with victims in this age group as when working with offenders. There are two issues in particular which seem worthy of further discussion here.

Firstly, there may be many young adults who, as a result of their victimisation, personality, poor communication skills, upbringing or pre-existing conditions, *inter alia*, feel shy or disempowered. As a result, they may not wish to communicate with the offender, or they may otherwise perceive there to be little benefit from a face-to-face restorative encounter. In some cases, it may be that practitioners can help to alleviate such fears at the preparatory stage by making the maximum amount of clear and accurate information about the process and offender available, or by helping to inspire confidence in the victim.<sup>31</sup> In other cases, however, the practitioner may suggest indirect communication, such as through letters, shuttle mediation or another medium.

Secondly, a victim of crime from this age group might be as reliant on their family as an offender for similar reasons to those outlined earlier (see 2.2.2). It may be that young adult victims would benefit from a family member attending a restorative process as their supporter, while some who do not wish to interact with the offender at all might be willing to be represented at a conference by a member of their family. This can be a useful option when young people are particularly vulnerable, such as if they suffer from learning difficulties, or in any other case where they do not wish or are unable to take part directly themselves.<sup>32</sup>

## 2.4 Conclusions and recommendations

It is clear from research and practice that maturity is a process, rather than an event, and that many individuals continue to lack social, psychological and emotional maturity well into their early- or mid-20's. Our legal framework and the social construction of childhood, however, combine to confer a wide array of new responsibilities on individuals once they turn eighteen, while simultaneously resulting in the withdrawal of a variety of support mechanisms reserved only for juveniles.

<sup>27</sup> Finkelhor (2008)

<sup>28</sup> Loeber and Farrington (2000)

<sup>29</sup> Roe and Ashe (2008). As the authors note (p.9), the methodological limitations of this survey, including non-response biases and the potential for inaccurate responses, must be considered when interpreting its results.

<sup>30</sup> The literature which discusses the positive impact that participation in a restorative process may have on victims of crime includes: Achilles and Zehr (2001); Dignan (2005); Sherman *et al.* (2005); and Shapland *et al.* (2007).

<sup>31</sup> See Section A1(b) of the *Best Practice Guidance for Restorative Practice* for more information on these and other core skills which are essential to restorative practice. Also, see Section B for more information about facilitation skills for sensitive and complex cases.

<sup>32</sup> Restorative Justice Council (2012a)

Consequently, a distinct approach must be taken with young adults, whereby the criminal law and criminal justice agencies are empowered to take the maturity of the individual into account when determining and delivering criminal justice interventions.<sup>33</sup> Moreover, young adults are by no means a homogenous group, and any given individual's lack of maturity must still be seen as part of the 'bigger picture', which may include mental or physical health conditions, problem alcohol use, drug addiction and a variety of other factors which are important to consider when undertaking preparations with both victims and offenders.

*"The main thing is about having distinctive interventions. Young people will have access to drug interventions and mental health services when with the Youth Offending Service, but after that, the number of young people who are transferred across to probation but are not signposted to other services is just astounding."*

– Senior manager at a T2A pilot project

Of course, the difficulties and proposed remedies outlined above regarding the use of restorative practices with young adults are neither exhaustive, nor might they be appropriate or sufficient in every single case. While creativity and the ability to innovate are essential skills for a facilitator to have, there is still a need to be both well-versed in matters unique to young adults, and aware of some of the methods which can be used to overcome the issues associated with a lack of maturity among this age group.

### Recommendation 1:

Restorative processes should be offered to all victims, irrespective of the age of their offender. A truly restorative justice system would have the capacity to undertake restorative interventions at every stage of the justice process, depending on the extent to which the offender admits responsibility for the offence and the readiness of all parties to participate.

### Recommendation 2:

Restorative practitioners who work with 18-25 year old offenders and victims should be aware of the possibility and implications of a lack of maturity among this age group, as well as the methods which can be used to overcome any associated complications. This might be aided by the development and dissemination of a "How to" guide for practitioners, linking the evidence on maturity (and desistance) to the practice of restorative justice.

<sup>33</sup> The T2A Alliance and Birmingham University are currently developing a practice guide for writers of pre-sentence reports on the subject of how to take account of maturity to inform recommendations made to the court.

# 3. The role of restorative justice in facilitating desistance with young adult offenders

## 3.1 The links between restorative justice and desistance

*“In the evaluation of the three schemes in England and Wales, we found that standard demographic factors played no part in distinguishing offenders who were more likely to reoffend between the randomly assigned restorative justice and control groups – but what did characterise those less likely to reoffend was how they reacted to the conference, specifically the extent to which offenders felt that the conference had made them realise the harm done by the offence, whether the offender said they wanted to meet the victim, the extent to which the offender was actively engaged in the conference, and how useful the process was found to be for the offender.”<sup>34</sup>*

**I**n recent years, there has been an increasing emphasis among researchers and policy makers on the ability of restorative justice to reduce reoffending.<sup>35</sup> Several empirical studies have investigated the links between restorative justice and reoffending in the UK and elsewhere,<sup>36</sup> notably that by Shapland *et al.*, who found that the use of restorative conferencing in three locations in England and Wales resulted in an average reduction in reoffending of 14-27% when compared with a control group.<sup>37</sup> Their results resonate with evidence from other conferencing programs, such as that in New Zealand, where those completing conferences in 2009 had a reoffending rate 20% lower than that of a similar group of offenders who did not participate.<sup>38</sup>

Following her extensive and separate studies of desistance from crime and restorative conferencing, Shapland identified many parallels in what offenders were saying about their struggle to desist from crime on the one hand and the effects of their participation in restorative processes on the other.<sup>39</sup> Elsewhere, criminologists and psychologists have put forward a variety of interrelated explanations regarding what causes offenders to desist from crime. These range from the reaching of maturity<sup>40</sup> and the building of social bonds,<sup>41</sup> to changes in identity and internal narratives.<sup>42</sup> For Shapland, it is possible that each of these might be achieved through participation in restorative justice,<sup>43</sup> and Crawford<sup>44</sup> has identified a variety of theoretically- and empirically-informed ways in which restorative conferencing and other restorative processes can assist or encourage an offender to desist, each of which can be applied to young adults.

### 3.1.1 Encouraging personal responsibility

*“Restorative justice can stop people from thinking that others are not the same as them, or that others matter less... it helps offenders to realise that they have done something wrong to a real person.” – Senior manager at a T2A pilot project*

34 Shapland (2007), p. 7-8

35 Robinson and Shapland (2008)

36 Maxwell and Morris (2001); Miers *et al.* (2001); Luke and Lind (2002); Hayes and Daly (2003); Hayes and Daly (2004); Tyler, Sherman, Strang, Barnes and Woods (2007)

37 Shapland *et al.* (2008)

38 New Zealand Ministry of Justice (2011)

39 Shapland (2007)

40 Moffitt (1993)

41 Sampson and Laub (1995)

42 Maruna (2001)

43 Shapland specifies that the dynamics of restorative conferencing make it the most conducive restorative process to achieving these ends.

44 Crawford (2010)



Offenders are often in denial regarding the injury, damage or harm which their actions have caused,<sup>45</sup> particularly when there is a perception that the victim or victims are qualitatively different to them (for example, if they are of another class, race or social group). After meeting their victims and hearing first-hand the impact of their actions and the suffering they have caused, however, offenders might find it much more difficult to deny their responsibility for, or the harm done by, the offence. Similarly, restorative processes can develop empathy by making the victim more “real” to the offender, thus encouraging remorse and reparative action, and making it more likely that they will at least refrain from causing similar types of harm to others in the future.<sup>46</sup> In the psychological literature, the building of empathy is often linked with maturity and cognitive development more broadly,<sup>47</sup> and so it is possible that this effect is particularly applicable to juveniles and young adults.

*“In court, you don’t need to take any responsibility because everything is done to you or done for you, whereas with restorative justice, you are put in the hot seat.”*  
– Restorative practitioner

### 3.1.2 Building and utilising relationships

By involving family members, other individuals trusted by the offender and representatives of the community, restorative processes can help to build or repair relationships and social bonds. Placing emphasis on the importance and longevity of these bonds might aid the cultivation of the desire to refrain from such wrongdoing in the future by increasing the offender’s feelings of care and support, while adding to the shame felt as a result of disappointing these significant others through one’s wrongdoing. This approach might be particularly important in modern Britain, given that young adults are increasingly living with their parents well into the third decade of their lives, as noted earlier in this report. This should also be seen in the context of the reportedly high proportion of people who come to attain employment through a friend or family member.<sup>48</sup>

*“The young man needed to re-build his relationship with his mother and the conference gave them an opportunity to talk and build bridges in a way that they had not done before.”*  
– Restorative practitioner

### 3.1.3 Combining accountability with reintegration (Reintegrative Shaming)

*“Restorative justice is a two-way street; it is about giving the young offender the opportunity to explain that they are not a monster. Otherwise, they think that if they’ve done something bad, it means that they are bad... they buy into that self-fulfilling prophecy.”*  
– Restorative practitioner

By separating the act from the actor (i.e. maintaining that what the offender did might have been bad, but that does not mean that they are a bad person), restorative justice can both hold the offender directly accountable to their victims and simultaneously encourage future conformity by underlining the fact that the offender is capable of change. This is in contrast with court-based processes, which can be said to couple accountability to the state with the degradation of the offender and a permanent shift in their identity from non-offender to offender.<sup>49</sup> In contrast, restorative justice allows the offender to join participants in agreement that the behaviour was wrong, while concurrently being made to feel more a part of, rather than increasingly shunned by,

<sup>45</sup> The denial of harm or injury by offenders is one of the “techniques of neutralisation”, as outlined by Matza and Sykes (1957)

<sup>46</sup> See also Zehr (1990) and Harris, Walgrave and Braithwaite (2004) for more information.

<sup>47</sup> Lee and Prentice (1988); Schieman and Van Gundy (2000); Lardén, Melin, Holst and Långström (2006)

<sup>48</sup> Reportedly, this might be as high as 34% in the UK (The Telegraph, 2011).

<sup>49</sup> Garfinkel (1956)

his or her community. Such feelings might be strengthened if the victim, their supporters or the offender's supporters react positively to expressions of contrition and admittance of responsibility during a conference.

*"These offenders came out of prison wanting to make a new start, and the meeting with their victim's family supported and reinforced them in doing so."* – Restorative practitioner

### 3.1.4 Restorative justice as a turning point

For some offenders, a significant event, such as participation in a restorative process, can result in a reconsideration of previous behaviours and instil a desire to desist from those behaviours in the future. Particularly for maturing young adult offenders, some of whom may already have begun to think in the long-term and consider a life beyond offending, a restorative process can provide additional motivation to engage with other rehabilitation services and to desist from crime by helping to cement a new, more positive internal narrative, in which offending behaviour is recognised as both undesirable and avoidable.

*"When people are young, they are very blinkered, thinking: 'I'm only living for today'. Restorative justice helps them to think in the long term and see the bigger picture"*  
– Restorative practitioner

*"Restorative justice was offered to me while I was still in jail... it was those meetings which really made a hell of a difference to me, that's what made me think, right, I'm finally going to get my head down and get on with my life. After all the time in prison I spent trying to get my head straight, this refocused everything I had done. It was like, yes, you've hurt these people, now it's time to go out and do some good stuff."* – Ex-offender who has been through a restorative process

In addition, restorative justice invites offenders to consider their future and the root causes of their offending behaviour in a secure environment and in a way that court processes do not. This can be reflected in the discussions held and agreements made at restorative conferences, both of which often focus on positive steps offenders can take to prevent future offending.<sup>50</sup>

*"The key thing is that you only get people to do difficult things if you make them feel safe, and that means that they have to trust you and that their experience of working with your organisation has to be positive up until that point."* – Service manager and restorative practitioner

### 3.1.5 Cooperative and voluntary procedures

One common theme in the criminological literature is that young offenders may be more likely to conform to behavioural contracts and reparative and rehabilitative activities which they perceive as fair and to which they have contributed and agreed, as opposed to those which have been imposed on them by the courts.<sup>51</sup> This effect may be particularly significant when offenders are treated with respect and have participated in the decision-making process, a point which is supported by Sherman's work on Defiance Theory,<sup>52</sup> as well as by Tyler and Huo<sup>53</sup> who assert that perceptions of procedural justice are central to whether or not participants

<sup>50</sup> Shapland et al. (2006)

<sup>51</sup> Hayes and Daly (2003); Okimoto, Wenzel, and Feather (2009)

<sup>52</sup> Sherman (1993)

<sup>53</sup> Tyler and Huo (2002); Tyler, Sherman, Strang, Barnes and Woods (2007)

## Box 2: Case study of a young adult offender who participated in a restorative process

"I moved in with my Nan when I was young. It was a bit of a hell-hole; Nan was quite abusive. At fourteen, I started squatting and stopped going to school. I started stealing from shops just so I could eat. Eventually, I moved to a bedsit with people who had serious drug and alcohol problems. Next thing I knew, I was sixteen and addicted to cocaine. It made me feel like nothing bothered me, but it's not a cheap drug. That's when I first started doing burglaries. I didn't think that this was people's stuff, I just didn't look past my own greed. The only person I cared about was myself, and everyone else could go to hell. I committed maybe 80 or 90 more burglaries before I was arrested. While in prison, I spent a month writing a letter to my victims. I rewrote it five times before I felt that it was good enough to send off. When I was released, restorative justice was mentioned to me and I thought it sounded good. Quite a few victims wanted to come forward.

I remember my first meeting was with a couple. When they walked in, I felt like cracking in half and disappearing. I didn't want to be there. The more the meeting went on, the more I opened up, and, when it was over, I felt on top of the world. They were worried that they had been targeted, and that we were going to come back for them because they'd called the police, and it felt really good to take a bit of the weight off their shoulders. I felt like I'd got a chance to explain my situation, and they'd got a chance to explain their feelings towards me, which helped me to understand how wrong it was.

Going to prison is like running away. But to go into a room knowing that people are going to walk through that door and want to know why you stole from them – that's scary for me. Every time, it kind of broke me, but it made me as well. I was looking in their eyes and thinking: 'I don't know these people, they don't know me, they've never done anything wrong in life, as far as I can tell, and I've taken their things'. I had to give them the best explanation I could, and apologise for what I'd done.

I had a lot of friends who supported me. They were ringing me up, saying: 'Well done!' It really made me think, "if I can do this, what can't I do?" Now, I'd like to work with kids like me, trying to stop them getting into the life I had. I want to do some good things for the community, to try and give something back. I want to make a difference."

feel bound by outcomes.<sup>54</sup> Restorative processes, in which participation, consensus and respect are central tenets, can achieve these ends, as evidenced by high levels of offender satisfaction present in mediation and conferencing evaluations.<sup>55</sup> For example, the Northern Ireland Youth Conferencing Service claimed a 94% offender satisfaction rate with conference outcomes between 2006 and 2008.<sup>56</sup> Of equal importance are the low non-compliance rates with conference-made agreements. For example, Criminal Justice Inspection Northern Ireland found that, as of June 2007, only thirteen of the almost 796 agreements made in 2006 had been revoked by the courts or returned to the Public Prosecution Service for Northern Ireland due to non-compliance.<sup>57</sup>

<sup>54</sup> Also, a study by Hayes and Daly (2003, p.725) found that "youthful offenders... whose outcomes were reached by consensus were less likely to reoffend"

<sup>55</sup> Umbreit (1998); McCold (1998); Umbreit, Coates and Vos (2001); Braithwaite (2002)

<sup>56</sup> Youth Justice Agency (2009)

<sup>57</sup> Criminal Justice Inspection Northern Ireland (2008). This number might subsequently have increased, as around two-fifths of plans were still ongoing at the time the report was written.

*“The way that you talk to people is important, you have to show understanding, respect, appreciation or common ground, rather than just give the impression that you are there to tell the person what to do.” – Restorative practitioner*

### 3.1.6 Building a sense of self-worth

Young adult offenders often suffer from low levels of self-confidence and self-esteem. By treating them with respect and giving them a chance to participate and have their voice heard, restorative processes can afford offenders both the confidence and motivation to comply with agreed actions, while making them feel more responsible and in control of their own lives and actions.

*“The young adults we work with have extremely low self-confidence and self-esteem, and so part of our job is to reinforce the positives in life and validate them as individuals.”*  
– Senior manager at a T2A pilot project

## 3.2 Conclusions and recommendations

There is now a wealth of research evidence suggesting that, when assessed, prepared, delivered and followed-up by a trained and skilled facilitator, restorative justice has the ability to reduce reoffending among those who commit a variety of violent and acquisitive crimes. From building self-esteem to encouraging personal responsibility and humanising their victims, there are a variety of ways in which participation in restorative justice might contribute towards desistance among young adult offenders, and, equally, to the development of maturity. Therefore, it is important that more research is done on the use of restorative justice with different types of offences in order to discern which of these factors, if any, are most important in this process. Likewise, it is crucial to undertake research into the impact of restorative justice on young adult victims, exploring the extent to which, and the possible reasons why, participation in a restorative process might help victims in this age group to recover from crime.

*“For some offenders, you can see their face change, you can see the impact and you can see the penny dropping straight away. For others, it may still have some impact at the time, but it might also be part of a longer-term process, sort of sowing the seeds which encourage them to start thinking.” – Restorative practitioner*

Some of the benefits of restorative justice (which, like probation, could be seen as a form of “assisted desistance”<sup>58</sup>) may become more apparent in the long-term. This is because offenders can store advice received when young and, even if not used at the time of delivery, it can play an important role at a later stage in their lives when circumstances so allow. Clearly, there are a variety of factors which influence the thought processes of young offenders as they begin and undergo the process of desistance, and it is possible that restorative justice has the ability to affect them all.

Criminal justice agencies may not be able to affect significantly the macroeconomic conditions which may contribute towards a criminogenic environment. However, through the use of inclusive, pro-social, motivational and procedurally just processes, such as restorative justice, it may be possible to foster changes in the states of mind of offenders, particularly those in youth and young adulthood, helping them along the path to maturity and desistance, and leading to positive outcomes in the short-, medium- and long-term for victims, communities and the public purse alike.

<sup>58</sup> Farrall, Sharpe, Hunter and Calverly (2011)

**Recommendation 3:**

More systematic quantitative and qualitative data should be collected and analysed by the government regarding the use of restorative justice with 18-25 year old offenders and their victims, who are also often young adults. This would afford us a better understanding of the mechanisms through which restorative justice aids desistance and allows for restoration among this age group.

**Recommendation 4:**

Being aware of the specific issues affecting young adults, restorative processes should be oriented towards facilitating desistance and developing maturity; for example, practitioners might aim to use restorative processes to create a sense of self-worth among young adult offenders, or to build strong relationships between young adults and their families when these are lacking.

## 4. Opportunities to use restorative justice with young adults

### 4.1 International perspectives



**As noted earlier, many of the support services and less-retributive criminal justice interventions tend to be reserved for those offenders under the age of eighteen, and restorative justice is no exception.** Although many countries have localised projects which use restorative justice with young adults in certain cases,<sup>59</sup> and others have a legal framework which requires judges to take an offender's participation in a restorative intervention into account

when determining sentence irrespective of their age,<sup>60</sup> nowhere are restorative processes fully integrated into the adult criminal justice system, and thus the opportunities to use restorative justice with adults of any age, and young adults in particular, tend to be fairly limited. This is certainly the case in England and Wales, where restorative justice is used considerably more with juveniles than with adults.

We can, however, look at youth justice systems in which restorative justice is well integrated in order to gauge how its use might be extended to young adults. For this purpose, we can look at the Northern Ireland Youth Conferencing Service, which is one of the best examples of how restorative justice can be fully incorporated into the youth justice process at the pre-sentence stage. Following a young offender's conviction, but prior to the passage of sentence, there is a statutory requirement for judges to refer almost all cases to the dedicated Youth Conferencing Service. Their job is to enquire as to whether victims and offenders wish to participate in a restorative conference, and then to prepare, facilitate and follow up on these conferences, which usually involve offenders, direct or indirect victims and supporters of both parties. It is well documented that these conferences result in positive outcomes in terms of reoffending rates and victim satisfaction, and participation for both minor and serious crimes is quite high.<sup>61</sup> Accordingly, if the participation criteria in the legislation were to be amended and the Youth Conferencing Service were to be expanded and trained sufficiently to include young adults in its remit, it would be possible to extend this system to encompass 18-25 year old offenders.

### 4.2 Restorative justice in England and Wales: the intervention points

For service managers who wish to integrate restorative justice into their work, it is important to consider at what point in the criminal justice process a restorative service could be delivered. As the T2A Alliance has recommended,<sup>62</sup> restorative justice can be used with young adults at any stage of the criminal justice process, depending on the suitability of the victim and offender, and their readiness to take part.

In England and Wales, there are several existing opportunities to use restorative justice with young adults at each stage of the justice process. These include:

- a) Street-based disposals, where restorative justice can be used by police as an alternative to arrest or prosecution. Existing opportunities to use restorative justice at this stage include Youth Restorative Disposals, which are occasionally used with young adults, Restorative Cautions and 'Level One' Community Resolutions;

<sup>59</sup> See, for example, the Young Adults Restorative Youth Conferencing Scheme in Victoria, Australia (Parliament of Victoria, Law Reform Committee, 2009)

<sup>60</sup> See, for example, The Sentencing Act (2002) of New Zealand

<sup>61</sup> Campbell *et al.* (2005); Jacobsen and Gibbs (2009)

<sup>62</sup> T2A Alliance (2012b)



- b) Formalised out-of-court disposals, including Adult Conditional Cautions<sup>63</sup> and Neighbourhood Justice Panels, the latter of which are currently being tested in fifteen locations across England and Wales;
- c) Following conviction, but prior to sentencing (i.e. at the pre-sentence stage). This can be done by deferring the passage of sentence to allow a restorative process to take place, as outlined in Schedule 16(2) of the 2013 Crime and Courts Act. This Act has been described as “the biggest development for restorative justice in England and Wales since legislation introducing referral order panels to the youth justice system in 1999”,<sup>64</sup> and, unlike the Northern Irish legislation mentioned above, it does not set an age limit on the offenders who may participate. It is therefore possible that, in the coming years, the use of restorative justice with young adults may be dramatically increased at this stage, albeit limited by, firstly, the capacity of local agencies to deliver restorative processes and, secondly, the willingness of judges and magistrates to defer sentencing so that a restorative process may take place;
- d) As a supplement to a court-ordered penalty, such as a part of an Activity Requirement of a Community Sentence Order or Suspended Sentence Order under the Criminal Justice Act (2003). While restorative justice is currently only available as part of a Community Sentence in a few locations, including Thames Valley, Yorkshire and London, a growth in service provision could make it available for young adult offenders across England and Wales;
- e) At the post-sentence stage, including mediation schemes undertaken prior to or following release from custody (see activities within HMYOI Thorn Cross<sup>65</sup> for an example of the use of restorative justice in prisons). This can be initiated by the victim, offender or a criminal justice professional.

There are also a multitude of other factors to consider when building the capacity to deliver restorative justice to young adults in a given area, including:

- How cases will be referred to the service and by whom;
- Whether the resources exist in a given local area to implement outcome agreements which contain rehabilitative and reparative elements;
- Whether partnership working (such as with T2A projects, other third sector organisations such as Victim Support, or criminal justice professionals and public agencies such as Victim Liaison Officers, Youth Offending Teams, Probation Trusts and Police Constabularies) might aid a project’s delivery;
- And whether the resources exist to administer restorative justice safely and effectively, including a commitment to train practitioners appropriately and to allocate the time and resources to allow for the proper assessment, preparation, facilitation, follow-up and evaluation of cases.

Thus, for service managers wishing to utilise restorative justice, there are many considerations, but also several excellent existing delivery models on which a new restorative service can be based. The Restorative Justice Council’s newly published Restorative Service Standards provide the key criteria for creating high-quality and sustainable service provision; online tools and consultancy support exist to enable services wanting to work towards these standards to achieve the Restorative Services Quality Mark.<sup>66</sup>

<sup>63</sup> Crown Prosecution Service (2013)

<sup>64</sup> Restorative Justice Council (2012b)

<sup>65</sup> HM Chief Inspector of Prisons (2012)

<sup>66</sup> See the website of the Restorative Justice Council at [www.restorativejustice.org.uk](http://www.restorativejustice.org.uk) for more details.

## 4.3 Conclusions and recommendations

There are a wide variety of options for service managers who wish to integrate restorative justice into their work throughout the justice process. This gives further credence to the argument that our legal framework must be responsive and flexible enough to allow all victims and young adult offenders to participate in restorative justice at an appropriate time, if and when they are willing to take part and it is safe to do so. For service managers who wish to take up restorative practices, there are a variety of factors to consider, but help is available from the Restorative Justice Council and other sources.

### Recommendation 5:

There should be much clearer pathways and governmental support mechanisms to enable organisations from the public, private and third sector who wish to become involved in the delivery of restorative justice to do so.

### Recommendation 6:

Public bodies should look to successful local and national projects here and in other jurisdictions for examples of how restorative justice can be better integrated into the criminal justice process at each stage.

## 5. Conclusion



**We have seen that many young people continue to mature until at least the age of 25, and that both maturation and desistance are processes through which young adults can be guided by the use of targeted interventions and support mechanisms. As shown by independent evaluations of the T2A pilots,<sup>67</sup> a targeted approach to young adult offenders can increase the take-up of employment and training, while also improving health, wellbeing and family relationships. Restorative practitioners, therefore, must be aware of the many issues unique to young adults, some of which may result from their inability to manage the plethora of new responsibilities with which they are faced. It is important to consider these factors when working with victims and offenders from this age group, and there are many creative methods which facilitators can use to ensure both the safety and efficacy of restorative practice in such cases.**

To facilitate desistance and develop maturity among offenders, as well as to heal victims, the use of restorative justice should be expanded with young adults at every stage of the criminal justice process. By reducing reoffending, such approaches can both save public money in the medium-to-long term and help to reduce the public's risk of future victimisation. Depending on the state of mind of individual offenders, restorative justice can serve either as "a trigger for desistance" or a "potentially significant 'stepping stone' on a journey towards desistance on which they have already embarked",<sup>68</sup> while participation in a restorative process is also often highly beneficial for victims of crime. For these reasons, restorative practitioners should be aware of the most recent research evidence linking restorative justice with desistance, and service managers should be assisted and encouraged to integrate restorative justice into their work.

<sup>67</sup> Burnett and Santos (2010)

<sup>68</sup> Robinson and Shapland (2008, p.347)

## 6. Summary of recommendations

### *Recommendation 1:*

Restorative processes should be offered to all victims, irrespective of the age of their offender. A truly restorative justice system would have the capacity to undertake restorative interventions at every stage of the justice process, depending on the extent to which the offender admits responsibility for the offence and the readiness of all parties to participate.

### *Recommendation 2:*

Restorative practitioners who work with 18-25 year old offenders and victims should be aware of the possibility and implications of a lack of maturity among this age group, as well as the methods which can be used to overcome any associated complications. This might be aided by the development and dissemination of a “How to” guide for practitioners, linking the evidence on maturity (and desistance) to the practice of restorative justice.

### *Recommendation 3:*

More systematic quantitative and qualitative data should be collected and analysed by the government regarding the use of restorative justice with 18-25 year old offenders and their victims, who are also often young adults. This would afford us a better understanding of the mechanisms through which restorative justice aids desistance and allows for restoration among this age group.

### *Recommendation 4:*

Being aware of the specific issues affecting young adults, restorative processes should be oriented towards facilitating desistance and developing maturity; for example, practitioners might aim to use restorative processes to create a sense of self-worth among young adult offenders, or to build strong relationships between young adults and their families when these are lacking.

### *Recommendation 5:*

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Public bodies should look to successful local and national projects here and in other jurisdictions for examples of how restorative justice can be better integrated into the criminal justice process at each stage.

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