

Proceed with caution

**An evaluation of the Thames Valley Police
initiative in restorative cautioning**

Carolyn Hoyle, Richard Young and Roderick Hill

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Contents

Acknowledgements	v
1 Introduction: the arrival of a new approach to cautioning	1
The development and significance of restorative cautioning	6
The design and implementation of the action-research project	9
2 Improving restorative cautioning through action research	13
Baseline data: interim study findings on the quality of the facilitation	13
Measuring improvement: the full evaluation findings on the quality of facilitation	14
3 Procedural fairness	18
Preparation	18
Participants' choices regarding attendance at restorative sessions	20
Participants' choices regarding support at restorative sessions	23
Satisfaction with the restorative process	25
Conclusion	29
4 Participants' views on the achievements of the restorative session	30
Did the restorative sessions help offenders to understand the effects of their behaviour?	30
Did the restorative sessions make offenders feel ashamed of their behaviour?	31
Were participants able to condemn 'the act' but not 'the actor'?	33
Symbolic reparation: apologies at the meeting	35
Breaking down stereotypes	36
Re-integration through resolution	38
Did the meeting leave participants feeling better or worse?	40
Did participants feel that it had been a good idea to have the meeting?	41
Conclusion	43
5 Longer term aims	44
Fulfilment of reparation agreements	44
Longer term impacts for victims	45
Improving damaged relationships	46
Re-offending: official and 'real' previous criminal histories	46
Re-offending in the year following restorative cautioning	48
The impact of restorative cautioning on offenders' criminal careers	49
Changes in attitudes towards offending	56
Conclusion	56
6 The relationship between quality facilitation and satisfactory outcomes	58
7 The place of restorative cautioning in the criminal justice system	61
Participants' feelings about restorative justice and punishment	61
What should happen to repeat offenders?	62
Should restorative sessions be facilitated by police officers?	63
Should police facilitators be in uniform?	65
Should restorative sessions be held in the police station?	65
Conclusion	66

Notes	70
References	72
Appendix 1: Sample interview schedule	74
Appendix 2: The representative nature of our samples of cases	76
Appendix 3: Assessing the quality of facilitation	78
Appendix 4: The self-report instrument	80
Appendix 5: Results from the self-report instrument	82
Appendix 6: The reliability of the self-report data	84

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1 Introduction: the arrival of a new approach to cautioning

This document reports our main findings on the implementation of the Thames Valley Police initiative in restorative cautioning. In a restorative caution, as distinct from an 'old-style' caution, the cautioning police officer (the facilitator) is supposed to invite all those affected by the offence, including any victim, to the cautioning session. The Thames Valley model envisages that a structured dialogue about an offence and its implications, according to a particular sequence of speakers and issues, will have benefits for all concerned. To achieve this structure and sequence, facilitators are provided with a 'script' which sets out an ordered set of explanatory statements, questions and prompts. This scripted model is one of the many diverse practices that march under the banner of 'restorative justice', a philosophy oriented primarily towards the repair of harm rather than deterrence, rehabilitation or punishment.

The findings reported here derive from a three-year research project, funded by the Joseph Rowntree Foundation and completed in October 2001. When the research began, the scripted model of police-led restorative justice was in the process of being subjected to a large-scale experiment in Canberra, Australia (Sherman *et al.* 2000). Offenders willing to participate in that experiment were randomly allocated to either a restorative conference or to court. Systematic measurements were taken of any differences between the two groups in terms of perceptions, experiences and outcomes. Whilst such a method is useful for providing data suggestive of causal relationships at an aggregate level, studies that rely on this approach rarely illuminate the mechanisms by which any differences between the groups were produced. We chose to adopt a predominantly qualitative strategy, partly so as to complement the eventual findings of the Canberra research. Under this approach the goal is to collect as much information as possible from participants on

whether they think there has been any change in attitudes, behaviour and relationships and on what they see as the factors behind that change. We also had an action-research remit in that we were committed to assisting the police to improve their practices. We thus broke the research project down into distinct phases so that interim findings from each could be used by the police to re-shape aspects of their initiative, such as the content of training, their practice manual and so on.

In phase 1, interviews were carried out with restorative justice facilitators and coordinators across the various police areas comprising Thames Valley Police force (Hoyle and Young 1998). These interviews enriched our understanding of the initiative and helped us to choose three areas for more detailed study in phase 2, namely Aylesbury, Banbury and Reading. Various criteria underlay this choice. Amongst these was the fact that the range of practices and problems across these three areas closely matched the range across the police service as a whole. In phase 2 we observed facilitators at work, studied the surrounding administrative processes and systems, and carried out unstructured interviews with those attending cautioning sessions.

Phases 3 and 4 of the research saw a shift towards the methods of formal evaluation. We collected qualitative and quantitative data through observing and tape-recording restorative processes, and also through tape-recorded interviews with the great majority of the participants (see Appendix 1). In addition we interviewed a sample of those who were affected by the offences but did not attend the cautioning sessions ('non-participating victims'). This report concentrates on presenting the findings of phase 3 (the 'interim study') and phase 4 (the 'full evaluation').

We begin by presenting a simple case study, taken from the sample of cases in the full evaluation. This is designed to convey a realistic sense of the types of interaction that the restorative

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cautioning initiative seeks to promote. The quoted text is taken from transcripts of interviews and also from a transcript of the tape-recording of the

restorative caution itself (the names have been changed to protect the anonymity of participants).

Case 9019

Three youths were arrested for burglary shortly after two of them, Ade and Barry, had been seen entering an unoccupied house during the daytime and leaving with a holdall full of goods. The third youth, Chaz, did not enter the house but climbed into the back garden and assisted the others in removing the goods. Ade and Barry were charged with burglary but it was decided that a police caution for the same offence should be offered to Chaz. The four young adults who lived in the burgled house were offered the opportunity to attend the caution and two of them, Dave and Eddy, accepted this offer. Dave wanted to attend 'to help out the offender, because he was only young, and we thought "why would he want to do what he did at his age, and why couldn't he have done it to another house, if not do it at all like?"' Eddy was simply curious about 'this new process'. Both victims were offered the chance to bring supporters but chose not to do so.

Chaz was made aware that two of the householders wished to attend and decided to accept the caution in order to avoid prosecution. He was accompanied by his father. He chose not to take up the option given to him of bringing further supporters. The cautioning session took place in a room in the local police station in which was arranged a circle of five chairs but no other furniture other than a chair at the side of the room from which a member of the research team observed the discussion. The 25-minute process was facilitated by a police officer trained in the Thames Valley model of restorative cautioning. On this occasion the facilitator, highly experienced in facilitating restorative cautions, began with the 'focusing statements' required by the script:

'Um if I just go round and introduce everybody so that you all know who's here and why you're all here. Dave and Eddy are two of the people that live in the house that was actually broken into. Mr Sanders is here in support of Chaz. And Chaz was obviously one of the offenders that was involved on this particular day. OK? Obviously it's important just to point out that everybody here is in the room because they chose freely to be here. Everybody had a choice about whether they wanted to go through this meeting, so it's just important really to say thanks very much because it is voluntary what you're going through, um, and we really appreciate obviously the fact that you've all volunteered to come in and take part in this meeting. What we're gonna do is look at obviously the offence of burglary, which occurred last month. That's gonna be discussed and there are a number of questions that I'm gonna ask different people so you will get the opportunity to speak throughout the meeting and we're gonna look at certain things, and then finish off and if you've got time to stay for a cup of tea, you'll be more than welcome to. OK. [*Now addressing Chaz*]. We're not here to particularly focus on you as an individual person. None of us here in the room this evening are gonna decide whether you are a good or a bad person. What we're gonna focus on is a type of behaviour that you chose to do that particular day and how that's affected other people. So we're gonna separate you from what you chose to do. Yeah? OK. Right, hopefully I'm gonna do as little talking as possible because this is all your opportunity to discuss what's happened and reach some sort of closure and conclusion for everybody. So, Chaz, I'm gonna ask you first if you can just tell me about what happened the day the burglary occurred.'

Chaz explained the incident in a subdued tone of voice: 'There was two of us that were just walking around, didn't have nothing to do, and we met, met up with another person. They said "do you wanna do a burglary?", and I said "no", but when they went to do it I was still with them. And then they were over the garden, and I was waiting round the corner, and I just jumped over the fence and I grabbed the box sort of with things in, then went off, and then got stopped by the police.'

The facilitator then used a brief series of questions designed to uncover Chaz's thoughts and feelings both at the time of the offence and subsequently. The series concluded as follows:

- Facilitator [F] What have you thought about since this occurred?
Chaz That it wasn't the right thing to do. [2 sec. pause] The other people that we'd broken into must be angry.
F [3 sec. pause] OK, and how have you felt since it happened?
Chaz Shit.
F [5 sec. pause] OK. Who do you think has been affected by what you chose to do that day?
Chaz [2 sec. pause] Dunno. People that own the house.
F [2 sec. pause] OK. Is there anybody else that you probably think may have been affected?
Chaz Um [3 sec. pause] the other two boys [I was with].
F [3 sec. pause] OK. Thank you.

The facilitator now put questions to each of the victims in turn, asking them to speak about their thoughts and feelings at the time of the offence and subsequently. Both victims said similar things, expressing how surprised they had been that their house had been burgled when they had left it unoccupied for only 20 minutes. They both felt it would have been worse if the house had been ransacked but, as it was, the main thought in their minds at the time concerned getting their property back. The facilitator then asked them how things had been since the burglary. Eddy replied as follows:

'Everything is checked. We check the doors before we go to bed at night, even though there's four of us in the house. It's ... everything's locked and also the last person that leaves the house checks everything just to make sure it's properly secured. I mean we don't know how they got into the property, there's no evidence ... there was no evidence of forced entry. But - um - it's just changed our patterns now, whereas before we would ... quick look around, shut the front door, because you have to have a key to unlock it to get in through the front door. We now check upstairs, downstairs, we double lock all the doors. It's just changed the way that we look at our belongings as well. You know 'cos it's so easy for someone just to walk in and take it. We just don't want that to happen again. It's the first experience I've had of burglary and it's the last one I want.'

The facilitator concluded this stage of the process by asking the victims to say how the burglary had affected other members of the household. She then asked the offender's supporter to describe his thoughts and feelings on hearing about the offender's arrest, and subsequently. The supporter's first comment was 'Shocked I suppose; that wasn't the sort of thing that I would have expected him to do'. The supporter was then asked to say how it had affected other members of the family. He spoke a little about this before breaking off to address the victims directly:

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Mr S ... Um [3 sec. pause] I just hope it never happens again to be honest. I'm sorry for your...
Eddy It could've ...
Dave It could've been anyone.
Eddy It could've been, it just happened to be us. But it could've been anyone, you know.

This was the first direct interchange between the participants during the process and the empathy being shown by the victims to the offender's supporter was striking. The facilitator then returned to Chaz, summarised what he had originally said, and asked him if there was anything he would now like to say about what had happened. This led to the following exchanges:

Chaz I'll say I'm sorry.
Eddy [3 sec. pause] That's OK.
Dave What would you do if you were in the same situation again?
Chaz Wouldn't go in. Try and walk away.
Eddy Yeah, I mean you had that chance, you say, that when they said about doing this burglary you said to yourself that you knew it was wrong ...
Chaz Mm.
Eddy But then you went along with it. Do you think this experience if ... if this arose again, do you think this experience would make you more stronger in deciding what's right and wrong?
Chaz Yeah.

After a five-second pause the facilitator said: 'OK, we'll just need to move now sort of ... towards the end. We've had a look at who's been affected. One of the other things that we need to do now before we finish is just have a look at what could be done to repair some of the harm that has occurred to those people that have been affected. Is there anything in particular that either of you [*addressing victims*] would want to see come out of this conference this evening?'

Eddy replied that he just hoped that Chaz had learnt his lesson adding:

'We're just happy to be here for this to go ahead. I mean I know the times, the time when I was young that I got in trouble but, you do learn by it and I hope he's learned by this experience. And I think just to be here, having to go through this and with being arrested and everything I think that's ... I think he's gone through enough, you know, for, for what he's done I think he's gone through enough.'

Dave nodded his agreement with these sentiments. The facilitator then asked Mr Sanders if there was anything he would like to see come out of the conference. He responded: 'I just hope Chaz has learned his lesson to be honest. The conference um ... I suppose, I suppose Chaz must be taking it in, what's happening, he must be, who wouldn't? [*short laugh*] So the conference does help, I suppose. I'll always be there for him ... if, if he needs my help.'

The facilitator then asked Chaz what he thought could be done to repair the harm. Chaz replied in a very quiet voice, after a four-second pause: 'Not a lot I could do. [7 sec. pause] I dunno.' The facilitator then acknowledged that Chaz had made an apology earlier on in the process and asked the victims whether that was sufficient for them. They both said that it was and stressed again that they just

wanted Chaz to learn his lesson and not do it again, sentiments which Mr Sanders subsequently echoed. The facilitator asked Chaz how he felt about this, and how easy it would be for him to act differently if he found himself in a similar situation in future. Chaz responded: 'Still a bit hard, 'cos of pressure from your friends telling you to do it. But I reckon it would be easier to say "no" than to do it.' The facilitator then checked again that the victims were happy with no more than an oral apology and brought the conference to a close by saying:

'Um I just think again it's just important to say thank you very much to all of you for coming in. Um hopefully it's given you the opportunity to say a few of the things that you wanted to um and it ... it's just the opportunity to bring the whole incident to a close so today can be sort of a mark-off point really. Um and everybody can move forward from here because we've dealt with it officially now, brought it to a close as far as we're concerned. But is there anything else that anybody wishes to say before we go through the paperwork?' Nobody had anything to add. The facilitator then asked Chaz to sign a form to say he accepted his caution and offered refreshments to everybody. Chaz signed the form but declined the refreshments and he and Mr Sanders left at this point. The victims chose to stay and chat with the facilitator about the restorative cautioning initiative.

In an interview conducted soon after the process concluded Chaz summed up his sense of the purpose of the meeting as follows: 'When you are confronted by the people it just makes you think before you act'. The key exchanges in our interview with him are reproduced below:

- Interviewer How did you feel when you were listening to other people say how the offence had affected them?
- Chaz It was all right. I felt kind of like, I don't know, kind of ashamed, more ashamed of myself ...
- Int Did the meeting make you feel ashamed of what you had done?
- Chaz Yeah it did.
- Int In what way?
- Chaz Just like when they were saying they had to check the back doors all the time.
- Int Did the meeting make you feel like a bad person or not?
- Chaz Not like a really bad person but just ashamed ...
- Int Overall, do you think it was a good or a bad idea to have had this meeting?
- Chaz A bit 50/50.
- Int What makes it a good idea, what makes it a bad idea?
- Chaz It makes it a good idea because instead of going to court, or getting charged, I just have to go to the meeting. The bad thing is that it's hard to go into, quite hard to go into it, it would have been better just getting told off from a policeman or something.

We asked the victims what they had felt when listening to Chaz talking about the offence. Dave told us that: 'You could actually feel it in the room and through his voice that he was deeply down sorry for what he done, and he regretted it'. Eddy said: 'Um, I don't know. I think seeing him just put a whole different thing, face-to-face, sort of thing, but, um, yeah, I felt for him actually. It must have been very difficult for him ... I think it's just easy enough to say, "Oh God", you know, "I absolutely hate these

people” that have, you know, taken things from your house, but when you see the truth, face-to-face, then you realise, especially when you realise how young he is, and you can’t be that angry.’

A year later, Eddy communicated one final comment to us:

‘I just hope but also believe that this is the way to go. Getting offenders to see the victims face-to-face and talking about the crime may install a certain amount of guilt into them and make them think before they do anything in the future. One day *they* could be the *victim*.’ (Original emphasis)

The above case was one of the most straightforward in our sample and can be seen as a ‘textbook example’ of the restorative cautioning initiative in action. The great majority of the cases in our sample were much less straightforward. In a sense, each was unique in that the circumstances of offences, and the expectations and experiences of offenders, victims and their respective supporters, were diverse. In addition, facilitators varied greatly in their adherence to the scripted model. However, it is not possible in a report of this length to present the numerous case studies that would be necessary to gain a full understanding of everything that we witnessed taking place as part of the Thames Valley initiative. Instead we will present our data mainly in aggregate form, although we will also present illustrative material drawn from transcripts of restorative cautions as well as from interviews. We have not provided a summary of our findings at the beginning of the report but the ‘reader-in-a-hurry’ is directed to the concluding sections to Chapters 3 to 5 and to Chapter 7.

The development and significance of restorative cautioning

Following *ad hoc* experimentation from the mid-1990s onwards, the Thames Valley Police initiative in restorative cautioning began formally on 1 April 1998. As from that date all police cautions were meant to be restorative in nature. In understanding the significance of the intended transformation it is important to say something about the

development, use and significance of the police caution at national level.

Within the context of criminal justice in England and Wales, a police caution may be defined as a formal disposal of a criminal case determined by the police without the involvement of either prosecutors or the courts. At the time we drew our sample of cases (1999–2000) its use was governed by Home Office Circular 18/1994. These guidelines state that the purpose of a police caution is to:

- 1 deal quickly and simply with less serious offenders
- 2 divert these offenders from unnecessary appearance in the courts
- 3 reduce the chances of their re-offending.

Under the 1994 guidelines, as in earlier versions, three pre-conditions must be satisfied before a caution can be administered:

- 1 there must be evidence of the offender’s guilt sufficient to give a realistic prospect of conviction
- 2 the offence must be admitted by the offender
- 3 the offender, or, in the case of a juvenile, a responsible adult, must give informed consent to the caution.

Nationally, the police developed the practice of cautioning with remarkably little legislative intervention or oversight, and cautioning rates, policies and practices have varied widely across

and between police forces and areas. Cautioning for young offenders has now been put on a statutory basis by the Crime and Disorder Act 1998, which substitutes the terms 'reprimands' and 'warnings' for cautions. Cautioning for adults remains solely governed by guidelines. The fact that cautions (including reprimands and warnings) make up one in three of all formal criminal justice disposals (that is, cautions and convictions) is testimony to the importance of cautioning processes in responding to crime. Nearly a quarter of a million offenders (239,000) received police cautions, reprimands or warnings in 2000 (Johnson *et al.* 2001).

Cautions are administered in person by a police officer, usually at a police station. According to the Home Office guidelines the officer is supposed to warn the offender that a caution can influence the decision whether or not to prosecute in the event of a further offence, and can be cited in future court proceedings. Whilst this may sound like quite a low-key encounter, an observational study by Lee (1998) in four police force divisions revealed that the police sometimes used a cautioning session to humiliate and stigmatise young people. Our own interviews with Thames Valley Police officers in the initial stage of this research were replete with references to 'old-style police cautioning' as amounting to a 'bollocking' by a senior police officer (usually an inspector) in which the aim was to make the cautioned person cry. They said that there had been no training on how to administer a caution, no supervision of practice and no expectation of consistency. The notion that these old-style cautions did not involve punishment was also undermined by the (admittedly patchy) development of so-called caution-plus schemes in the 1980s and 1990s which typically involved cautioned persons engaging in rehabilitative or reparative schemes of one kind or another (Crawford 1996). The Crime and Disorder Act 1998 took this process further by setting up Youth Offending Teams and requiring that they consider

an action plan of measures designed to reduce the risk of re-offending in the case of all young offenders who receive a warning (the new name for an offender's final or 'last chance' caution).¹

It is against this national background that restorative cautioning has developed in the Thames Valley. A restorative caution involves the two distinct innovations noted in the introduction. The first is that the cautioning police officer is supposed to invite all those affected by the offence, including any victim, to the cautioning session. If a victim is present, the cautioning session is termed a 'restorative conference'. When the victim does not attend the session (including, of course, cases where there is no identifiable victim) the session is called a 'restorative caution'. The second is the structuring of the session according to a 'script' derived from the police-led model of restorative cautioning developed in Wagga Wagga, Australia, by Senior Sergeant Terry O'Connell. The Wagga Wagga model was influenced by the New Zealand system of family group conferences and the quite separate criminological theory of re-integrative shaming developed by John Braithwaite (Moore and Forsythe 1995). The latter posits that the best way of controlling crime is to induce a sense of shame in offenders for their actions whilst maintaining respect for them as people (because to condemn them as 'bad people' might push them towards deviant identities, commitments or sub-cultures). It further posits that re-integrative shaming is best achieved not by the police or the courts but rather by exposing offenders to the emotionally charged opinions of those whom they most care about, such as parents, partners and friends.

The other main influence in the development of restorative cautioning was a growing conviction that victims should be offered a greater role within criminal justice processes. In particular, they should have the chance to express their views about the offence, to have their anxieties and fears addressed, to receive information and compensation, and to be

consulted on decisions that affect their interests. Inviting victims (whether personal victims or representatives of institutions) to restorative cautions potentially advances all of these goals, and, in addition, may increase the likelihood that offenders will come to feel shame for what they have done.

The primary aim in the scripted model is to encourage the offender to take responsibility for repairing the harm caused by the offence. As the model seeks to promote the active involvement of the offender in this way it is seen as essential that the offender should experience the process as fair and not as degrading. Under the script the officer first sets a 're-integrative' focus for the meeting by emphasising that participants are not there to judge whether the offender is a good or bad person but rather to discuss the harmful effects of the offending behaviour and to work towards repairing that harm. This is intended to guard against any open-ended stigmatic shaming of the offender. The facilitator then asks the offender to describe their thoughts and feelings at the time of the offence and subsequently. This allows the offender to take responsibility for the offence prior to anyone else speaking, which may serve to alleviate the anger that other participants might be feeling (thus maximising the chance that they will make constructive contributions later in the process). The others present are then invited to talk about the harm the offence caused. In a restorative caution the views of any absent victim are meant to have been sought by the police and should be conveyed at this stage in the process. The offender is then asked if there is anything they wish to say in response, and this sometimes prompts apologies or other reparative gestures. The participants are then encouraged to explore the issue of repair further. Sometimes any oral commitments made are reflected in a written (non-enforceable) reparation agreement drawn up by the facilitator. Whilst the discussion about the offence and its implications is meant to induce a sense of shame in the offender,

the apology and reparation stage is designed to foster a sense of re-integration.

Officers can facilitate restorative cautions and conferences only if they have first received specialist training. During this training they are provided with a practice manual which includes modules on the underlying theories, practice standards, and the script. Once trained, they are allocated cases by local coordinators who also endeavour to monitor whether the practice standards are adhered to. In addition, a team of officers at police headquarters, known as the Restorative Justice Consultancy, oversees the initiative and maintains a database of all restorative cautions and conferences. The restorative cautioning initiative can thus be portrayed as seeking to engineer a shift away from low visibility, idiosyncratic and sometimes overtly stigmatic police behaviour towards more consistent practice under conditions of greater visibility and accountability according to definite aims and standards.

The Thames Valley restorative justice initiative, unlike many others, has been large scale and not confined to particular offences or offenders. Figures relating to the first three years of the Thames Valley Police restorative cautioning initiative are set out in Table 1.

Thus in the year ending 31 March 2001 the police conducted 4,862 restorative cautions and 637 restorative conferences. Table 1 also reveals that not all police cautions since the initiative formally began have been carried out according to restorative principles. Some Thames Valley Police cautions are termed 'instant' in recognition of the fact that a victim's participation was not secured or their views not sought, or that there was no direct victim *and* the caution was dealt with in a perfunctory non-scripted manner (as is usually the case when a custody sergeant decides to offer a caution shortly after someone's arrest and detention in the police station). The discouragement of such cautions by the Restorative

Table 1 Thames Valley Police restorative cautioning: the first three years

Year	Instant caution	Restorative caution	Restorative conference (victim present)	Total cautions	% of cautions which were 'scripted' ²
1998–1999	3,123	2,815	652	6,590	53
1999–2000	1,177	4,388	626	6,191	81
2000–2001	1,715	4,862	637	7,214	76
Total	6,015	12,065	1,915	19,995	70

Source: Restorative Justice Consultancy database.

Justice Consultancy is reflected in the sharp decline in the number carried out in the second year of the initiative. It is clear from this table, however, that not all police cautioning is yet restorative in nature (as was the aim of Thames Valley Police). Clearly a significant proportion of cautions are still being carried out 'instantly' in custody. It may be that some instant cautions are administered by officers who have received what Thames Valley Police term level three training. This is designed to provide a basic awareness of the restorative justice model. The extent to which this training influences instant cautioning practice is an empirical question beyond the scope of this study.

It can be seen that the Thames Valley Police appears to have transformed its cautioning practices to a substantial degree. About three-quarters of all cautions are now taking the form of a scripted session, and over 600 a year (about 10 per cent of all cautions) involve offenders coming face-to-face with victims in a restorative session. In short, the sheer scale and intensity of the restorative cautioning initiative in the Thames Valley has created an excellent opportunity to study the value of introducing restorative justice principles and methods within criminal justice. Long before the official start of April 1998, Thames Valley Police actively sought to ensure that its initiative would be subject to an independent evaluation. This was seen as an important part of its strategy of identifying, sharing and spreading good practice, both within the force and beyond. A

consequence of this understanding of the importance of research was that we were able not only to study the development of the formal initiative from the outset but also to contribute to that development.

The design and implementation of the action-research project

Many criminal justice programmes 'fail' not because of the weakness of the underlying ideas but because of poor implementation (Hollin 1995; Bennett 1996). One possible retort to the 1970s' slogan 'Nothing Works' was that little had been properly tried (still less properly evaluated). Thus, when Thames Valley Police opened a discussion with us in 1997 concerning the design of an independent study of its restorative cautioning initiative, our advice was that a formal evaluation of the programme's impact should only be attempted following a period of action research in which we would help the police implement its model as planned.

For several reasons we fully expected there to be a large initial gap between the blueprint for restorative cautioning (as established through training manuals and programmes, and the facilitator's script) and the actual practice of police officers when facilitating cautioning sessions. First, all programmes tend to suffer from teething difficulties. Second, an exploratory study conducted in the Thames Valley in 1997 by Young

and Goold (1999) had highlighted the likelihood of such a gap. Third, and more fundamentally, we expected a wide gap because we conceived of restorative cautioning not as a stand-alone new practice capable of being evaluated in isolation but rather as an attempt to transform a long-existing policing practice. In other words, restorative cautioning would necessarily involve some accommodation and conflict between two sets of philosophies and practices: the first, restorative justice; the second, established policing. The difficulties of changing entrenched policing practices are known to be immense (see for example Chan 1996). Suffice to say that we expected to find that established policing attitudes, structures and patterns of behaviour would shape and often distort the intended restorative nature of cautioning sessions. It made sense, therefore, to evaluate restorative cautioning as something embedded within wider policing structures and understandings.

Our research aims, which fully met with the approval of Thames Valley Police, were therefore to measure the anticipated gap between restorative theory and policing practice, understand its causes and effects, and test whether it was possible for the police to close this gap once any failings in implementing the model had been documented through research. This would also allow us, we hoped, to test the impact of 'police-led restorative justice', as opposed to police-led cautioning sessions labelled as such. We thus built in a 'before and after' component to the action research. Systematic 'before' measurements were made in the interim study carried out between January and April 1999. The resulting (confidential) report of the interim study produced in October 1999 was based on our observations of 23 cautioning sessions, all but one of which were tape-recorded, and on the 135 interviews relating to these cases (Young and Hoyle 1999). The report included 81 recommendations designed to close (or at least narrow) the gap we detected between the

programme's protocols and the behaviour of the facilitators we observed. All of these recommendations were accepted by the police. After a pause to allow for their implementation, which included issuing a modified 'script' and top-up training for facilitators, we collected our 'after' data by studying a further 56 cases between January and April 2000. It was these latter cases that formed the basis for our full evaluation of the initiative.

To a degree that varied from area to area we were reliant on the police notifying us when cautioning sessions were to take place. It does not appear, however, that our overall sample is skewed in such a way as to make it unrepresentative (see Appendix 2). For example, the offenders we saw were neither the 'worst risks' nor the 'best risks' but rather a reasonably representative sample. Their previous criminal records, their gender and their age were all in line with those of the total population cautioned. However, our sample could not be said to be sufficiently representative of each of the three individual police areas we studied. We saw very few victims in Aylesbury, for example, yet we know from the Restorative Justice Consultancy database that this area did not have a low rate of conferences when compared with the other two areas. In the remainder of this report we have therefore refrained from making judgements about the individual areas that we studied.

Once we had been notified of a case our method was to introduce ourselves to the participants as they arrived at the cautioning session venue and to seek permission to observe and tape-record the process. We stressed that we were independent of the police and that all data would be treated in confidence. Out of 82 sets of participants we approached, only three refused permission to observe, with a further two refusing permission to tape-record. Our presence as observers during the process did not appear to have any major effect on participants. When we carried out in-depth interviews with them about their experience of the

process, very few participants mentioned that they had been distracted or otherwise affected by our presence in the meeting. The following participant's comments probably sum up how the silent majority appear to have felt about being observed:

'It didn't feel like you were there, you know, analysing everything that was said, I thought it was nice that you were in the background and not really there sort of thing. So that was done nicely as a sort of background thing. But also to have a discussion with you before starting, rather than have you just sit there, so that was sensible to sort of know why you were there and what you'd be doing and what happens afterwards, so you know, it wasn't like you weren't kept informed, at least you were informed of what was going on.' (9004 VS1)³

Nevertheless, as Daly and Kitcher (1999) found in their study of restorative conferences in South Australia, the presence of observers did seem to make facilitators more self-conscious and more concerned to do and say 'the right thing'. This was no doubt particularly so in our full evaluation (some facilitators told us as much) because by then facilitators had been given the opportunity to digest the critical remarks we had made in the interim study report about some aspects of their handling of cases. To some extent, then, our presence put facilitators on their 'best behaviour' and this strengthens our sense that our research represents police-led restorative justice under optimal conditions, in other words, a 'best-case' scenario.

In both the interim study and the full evaluation some facilitators were observed repeatedly and others only once. Exactly half the 56 meetings in the full evaluation were facilitated by just three facilitators, whilst nine of the other facilitators were observed just once, with the remaining eight being observed either two or three times. Thus, if any of the most prolific facilitators regularly made mistakes this would impact significantly on our

aggregate data. It does not affect the representative nature of this study, however, as these facilitators did in reality undertake a disproportionate amount of the restorative cautioning work in their respective areas.

Overall, our conclusion is that, in both the interim study and the full evaluation, we obtained reasonably representative samples of cases once we took the three areas together, thus allowing us to make meaningful comparisons between these two periods of data collection *and* to make inferences about the Thames Valley initiative as a whole.

In both the interim study and the full evaluation we attempted to interview all those whom we had observed taking part in restorative cautions and conferences (which we will call, collectively, restorative sessions). Our intention was to interview them as close to the conclusion of the restorative session as possible (stage 1), four months later (stage 2) and, where appropriate, a year after the session had taken place (stage 3). In this way we hoped to track any changes in attitudes and behaviour over time, and to evaluate the extent to which these could be attributed to restorative justice. As noted above, our interim study report was based mainly on the transcripts of restorative sessions but also on 135 interviews conducted at stages 1 and 2. In the full evaluation we were successful in interviewing all facilitators, and interviewed at the first stage: 67 of the 73 offenders,⁴ 31 of the 33 victims, 71 of the 77 offender supporters, all of the 12 victim supporters, both of the two community representatives (school teachers) and all three of the criminal justice professionals (two arresting officers and one probation officer). Hence, at stage 1 of the full evaluation we interviewed 95 per cent of the 256 participants we observed.

We did not think it sensible to attempt to interview those less directly involved in the offence at stages 2 or 3 (community representatives, facilitators and professionals) as there was no reason to think that these participants would have

Proceed with caution

had any further views on particular cases. We successfully re-interviewed the great majority of other participants, as Table 2 demonstrates.

At stage 3 we were concerned that approaching victims and their supporters for a third interview might undermine any sense of resolution these participants had achieved. With the encouragement of our Advisory Group, and particularly of the representative of Victim Support, we did, however, send a postal questionnaire to victims inviting them to contribute any further views if they wished to do so. Some victims responded to this invitation and two wished to be interviewed. Offenders and their supporters might also have wished to achieve a sense of closure, of course, as our stage 3 interviews with them frequently confirmed. But given the public interest in assessing whether restorative justice has any long-term impact on offenders' attitudes, behaviour and offending, we were committed to attempting stage 3 interviews with these participants.

We also aimed to uncover the stories of some 'non-participating victims' (victims who did not meet their offenders). One aim of this part of the research was to test the extent to which officers planning restorative meetings followed their own guidelines about inviting victims to participate in some way in the restorative process. Another was

to identify the reasons why victims chose not to participate more actively. Many victims in Aylesbury, Banbury and Reading during the full evaluation (from January 2000 to April 2000) were either not invited to the restorative session or chose not to participate. In approximately 82 per cent of the 334 cases where there had been an identifiable victim, the victim did not attend the restorative meeting. In over half of the 56 restorative meetings we observed and followed up there was no victim present at the meeting. We were able to identify 41 non-participating victims of whom 27 agreed to provide us with an interview. As with the participating victims, these included both personal victims and those representing shops or institutions.

In total, then, we carried out 510 formal interviews in the full evaluation, with interviewing only ending in May 2001 (a few hard-to-locate participants were interviewed as late as July 2001). The great majority of these interviews were tape-recorded, fully transcribed and subjected to content analysis. In accordance with social scientific conventions, minor details have been altered in some of the quotations used in order to preserve the anonymity of our respondents. For the same reason, each case in the full evaluation has been assigned a unique numerical identifier.

Table 2 Participants interviewed at stages 1, 2 and 3 of the full evaluation

Participant	Stage 1	Stage 2	Stage 3	Total interviews
Facilitators	56	0	0	56
Offenders	67	55	44	166
Victims	31	31	2	64
Offender supporters	71	63	35	169
Victim supporters	12	11	0	23
Community	2	0	0	2
Criminal justice professionals	3	0	0	3
Total interviews	242	160	81	483

2 Improving restorative cautioning through action research

In this chapter we explore the extent to which facilitation practice improved over the lifetime of this research project, taking the interim study data as the baseline. One unusual aspect of our research is the tape-recording of the restorative session itself. These recordings have been fully transcribed and each transcript has then been checked for accuracy against the original tape. These transcripts have allowed us to carry out simple counts of words spoken by each participant as well as to explore qualitatively the kinds of contributions they make. This analysis allows us to compare the data from the interim study (carried out from January to April 1999) with those from the full evaluation (January to April 2000).

Baseline data: interim study findings on the quality of the facilitation

In the interim study our main conclusion was that only two of the 23 cases we observed merited the label of restorative justice in that they adhered closely to the Thames Valley model and were therefore restorative in nature. Each of the other cases involved major deviations from the Thames Valley Police model. In particular, facilitators tended to dominate the exchanges which took place (accounting, on average, for half of all the words spoken) and some participants, notably offenders' supporters, were sidelined. On the other hand, the practices we observed were in most cases significantly different from old-style cautioning in that they included at least some commitment to broader community involvement, procedural fairness, and the use of a coherent criminological approach, namely Braithwaite's re-integrative shaming.

When police officers dominated the substantive discussion the influence of wider policing understandings and processes could plainly be seen. At the most extreme, more fully documented

elsewhere (Young 2001), we saw instances of facilitators re-investigating the offence, seeking admissions to prior offending and asking questions that appeared to be attempts to gather useful criminal intelligence. This was probably more a matter of habit (the style was that of a standard police interview) than a conscious strategy, but its impact on the process was no less damaging for that. In other cases the facilitator became defensive about police action taken at earlier stages of the case, such as arrest and detention in the cells. In one case the facilitator even encouraged a young offender to act as a low-level police informant in future. More generally, and more frequently observed, was the tendency for the facilitator to behave as if the offender had to account to him or her personally, with the other participants reduced to little more than passive observers. For example, in one case, in which the only 'focusing statement' had been the facilitator saying 'we're here to discuss your offence', the questioning began as follows:

'So, can you go back for me to that day in November and just take me through, again, exactly what you did. I know you've been through this once, in interview, but I haven't heard it from you. And it, it would just be useful for me ...'

Other facilitators indulged in occasional judgemental comments, sometimes, for example, implying disbelief in the prospect of the cautioned person not re-offending. As one facilitator said in a conference:

'To be honest when I first looked at this, I, I, I just couldn't understand it, and I think why would a 17-year-old, who's never ... either you're very good at stealing and you've done it all your life and never been caught, or, for some reason, you've just gone out and started now, which is very unusual.'

Participants were quick to pick up on such implicit judgements. For example, when we asked the 'unusual' 17-year-old shoplifter our standard question concerning whether he felt fairly treated in the meeting, he replied:

'Yes and no. I felt sometimes I was judged to be a criminal, even though it was a first offence. I didn't like the tone, I was talked down to a lot. They didn't want to hear what you had to say, they just wanted to say what they thought of you. It was a minor offence really but they treated me like someone who did it every day.'

Finally, we saw many instances of facilitators over-stepping the remit of their position by extracting apologies from offenders in a fairly coercive way and, more generally, by pursuing their own reparative agenda rather than enabling a discussion by the key participants.

The interim study report fully documented all these problems, and more, in the space of some 200 pages. We hoped that this would leave the police in no doubt as to the scale and nature of the deviations from the script and, in this, we were not disappointed. Our 81 recommendations for change were designed above all else to encourage those running cautioning sessions to adopt a more even-handed and genuinely facilitative stance. In other words, we urged facilitators to be more neutral in their facilitation, rather than to align themselves with either the offender or the victim, or, of even more concern, the police organisation. We also urged facilitators to set a clearer focus for these sessions and to adopt a re-integrative rather than deterrent approach to their work. Some facilitators read the report in its entirety, whereas others attended presentations at which the findings were summarised. All of those we observed in the full evaluation had received top-up training designed to improve their understanding of the Thames Valley model and had also been issued with a re-worded script which explicitly exhorted them not to pursue a policing agenda within the cautioning

session. What difference, if any, did this flurry of remedial activity make?

Measuring improvement: the full evaluation findings on the quality of facilitation

In some respects the full evaluation data suggested that facilitators remained the dominant figures that the interim study had showed them to be. As in the interim study, there were many instances of offenders, victims and their respective supporters saying proportionately very little, with facilitators contributing, on average, half of all the words spoken during a restorative session. However, closer analysis demonstrated some significant improvements in facilitation practice. Table 3 presents some direct comparisons between the interim study and the full evaluation in terms of non-compliance by facilitators with selected aspects of the script.

As can be seen, there generally was a much greater degree of fidelity to the script in the full evaluation. On the other hand, progress has clearly been patchy and there remains substantial room for improvement in facilitation practice. For example, the fact that 38 per cent of victims in the full evaluation were not asked what they would like to see come out of the restorative conference is a significant failing, even if it is a considerably lower proportion than in the interim study.

We devised an overall measure of the quality of facilitation. This was based on allocating a score to six different aspects of facilitator behaviour, with the minimum overall score being six and the maximum 18 (see Appendix 3). 'Facilitation' scoring between 6 and 10 was deemed to be 'least restorative', between 11 and 14 'mid-restorative' and between 15 and 18 'most restorative'. As Table 4 shows, there was a substantial improvement in the quality of facilitation from the baseline established by the interim study. Thus, for example, 70 per cent of the interim study cases were adjudged 'least restorative' as compared with 39 per cent of the full evaluation cases.

Table 3 Non-compliance with selected aspects of the script

	Interim study (%)	Full evaluation* (%)
<i>SETTING THE CONFERENCE FOCUS</i>		
Failure by the facilitator to ...		
explain that the meeting will focus on the act and harm done	39	20
say that 'we're not here to decide if the [offender] is a "bad person"	61	31
check whether participants want to ask questions or clarify anything	83	60
<i>FACILITATING THE OFFENDER'S STORY</i>		
Failure by the facilitator to ...		
cue in story by saying 'it will help us to understand who's been affected'	74	52
refrain from irrelevant or improper questioning	57	26
refrain from improperly referring to the police version of the incident	43	17
<i>FACILITATING REPARATION AND RESOLUTION</i>		
Unjustified failure by the facilitator to ask the ...		
victim what they want to see come out of the conference	61	38 **
offender's supporter(s) what they want to see come out of the conference	59	34 **

*Excludes one case where a minor tape-recorder malfunction prevented definite judgements.

**Also excludes one case which was aborted (due to a denial of the offence by the 'offender').

Table 4 Improvements in quality of facilitation from interim study to full evaluation

Quality of facilitation	Interim study (n=23) (%)	Full evaluation (n=54*) (%)
Most restorative	9	35
Mid-restorative	22	26
Least restorative	70	39

*Two of the 56 cases in the full evaluation have been excluded from this table, one because it was aborted early on in the process and the other because it involved an informal cautioning session. In this and other tables in this report percentages may not add up to 100 due to rounding.

There has undoubtedly been a research effect here. Following the publication of the interim study report we know that some facilitators became more wary of our presence and 'went through the motions' in order to avoid further criticism. A few of the facilitators hinted at this or bluntly told us that 'when you've finished collecting your cases you should come and see how I really do them'. Whilst this is an interesting finding, it does not undermine the value of our work. To reiterate, we wanted to find out whether the project could change police behaviour and to measure the impact on participants of something that could justifiably

be called 'police-led restorative justice'. We helped Thames Valley Police, in the aggregate, to change facilitators' behaviour in the desired direction. Moreover, we heard from other facilitators that they accepted the arguments in our interim study report and that they were seeking to change their practice in line with our recommendations. Thames Valley Police cannot, however, assume that all of its facilitators have continued to behave in the way we observed them to do in the full evaluation. Rather, it could be assumed that some of them have not, and that the gap between theory and practice has widened since we finished collecting our cases.

Proceed with caution

A question raised by Table 4 is whether or not the quality of facilitation varied according to the level of experience or training of individual facilitators. All but three of the 20 facilitators we observed were 'level one' trained (the full training required to run a restorative conference).¹ Thus it was not possible to detect any relationship between level of training and outcomes. The number of 'restorative conferences' previously run by the facilitators we observed in the full evaluation ranged from none to around 100, with the average being 12. The number of 'restorative cautions' previously facilitated ranged from zero to 300, the average being 37. We divided these facilitators into two equal groups. The ten who had facilitated less than 14 cautions and conferences (combined) were deemed 'inexperienced' and the other ten were deemed 'experienced'. The average number of cases facilitated by the inexperienced was eight, 80 fewer than the average number of cases handled by the experienced. As Table 5 shows, in the 54 cases where a judgement was made about the quality of the facilitation process, there is an inverse relationship between experience and quality of process. Thus, half of all the cases run by the experienced facilitators fell into the 'least restorative' category, compared with just a quarter of all the cases handled by the inexperienced facilitators. The explanation for this inverse relationship may be that facilitators recently trained and/or 'feeling their way' as they run their first few cases are more likely to comply with the restorative justice model and its associated script than those who have facilitated on dozens of occasions.

As one inexperienced facilitator, having just completed a very successful caution, told us:

'I firmly believe in the new script, I believe it works. If you follow the script you will get a result. I trained with the new script, [the script which was produced in response to our Interim Report] and when we were doing the training for it, we put in all sorts of scenarios in the training and the new script worked every time. And we thought ... and I firmly believe ... there's a lot of people here that don't believe in it, they don't like it, because they've been trained in a certain way, but they haven't seen the new script working and I think it works.' (3001 F)

This is in sharp contrast to the following comment made by an experienced facilitator, being interviewed after a conference which had not gone well and in which he had deviated sharply from the script with no apparent good reason.

'I felt that we ... I wouldn't say we went off track, but we didn't follow the script 100 per cent ... because I must say when ... prior to being tape-recorded by yourselves, I really would hardly use a script, I'd just go along my own pace, but I understand the reasons why you need to use the script and there are certain phrases it says in brackets, "please do not lose this, it's extremely important", so I can understand the reasons for using the script. But I sometimes find it a bit too prescriptive.' (9014 F)

The other factor that was associated with the quality of facilitation was the presence or absence of an identifiable victim. Of the 21 'least restorative' cases, only three (14 per cent) had victims present at them. By contrast, victims were present in 12 of

Table 5 Relationship between experience and quality of facilitation

Quality of facilitation	Experienced facilitator (%)	Inexperienced facilitator (%)	Total cases (%)
Most restorative	27	46	19
Mid-restorative	23	29	14
Least restorative	50	25	21
Total cases	30	24	54

the 19 'most restorative' cases (63 per cent). In other words, in the full evaluation, restorative conferences were much more likely than restorative cautions to be run 'according to script'. In interviews with facilitators it was evident that some of them saw no need for extensive preparation in cases where victims were not expected to attend. The importance of remaining neutral as between the offender and the victim, and of keeping the session focused on harm and its repair, was also seen as less salient when no victim was actually present. In such cases some facilitators tended to pursue their own deterrent agenda or sideline the interests of the victim. However, in the interim study only one of the 16 conferences we observed was adjudged to be 'most restorative' in terms of facilitation practice and most fell into the 'least restorative' category. It seems, therefore, that the

presence of a victim is neither a necessary nor a sufficient pre-condition for high quality facilitation.

In conclusion it can be said that the full evaluation sample contains proportionately far more cases facilitated in accordance with the Thames Valley Police restorative justice model than was true in the interim study. This enabled us to test whether the 19 cases that accorded to the script were associated with more positive outcomes than those where facilitators ran the session more in line with their own instinctive feel for what is appropriate. In the next three chapters we pave the way for this analysis by presenting our findings on the experiences of those who participated in the restorative cautions and conferences observed as part of the full evaluation between January and April 2000.

3 Procedural fairness

This chapter examines the perceptions of procedural fairness held by the participants in the restorative sessions observed in the full evaluation. Procedural fairness is regarded by Thames Valley Police as a key component of the restorative cautioning initiative for three main reasons. First, it is important that innovatory practices like restorative cautioning are seen as legitimate, otherwise participation rates are likely to be low. Second, participants are less likely to exchange their views freely, and offenders are less likely to take responsibility for the harm caused by an offence, if they perceive themselves to be treated unfairly. Third, there is empirical evidence that participants experiencing fair process are more likely to accept the outcomes of that process as legitimate, even if they are burdensome (Tyler 1990). That sense of legitimacy may in turn increase the likelihood that offenders honour reparation agreements.

Relying mostly on data from stage 1 interviews (that is, those conducted soon after the session), we consider participants' feelings about the amount of preparation for their case, looking in particular at the extent to which they felt they were given choices as to attendance and support at the meeting. We also explore their views concerning procedural fairness within the meeting. Tables in this report are based on less than 186 interviews because not all participants answered every question during the interview, hence there are a few 'missing cases'. In addition, we have excluded the five interviews with community representatives and criminal justice professionals as the small numbers in each category make any percentages potentially misleading.

Preparation

One of our interim study recommendations was that the facilitator should speak personally to each participant prior to the cautioning session to explain the format and to answer any questions.

We tested how often this was done by asking participants how much information they had got from facilitators, or others, and in what format they had received it. In over a third of cases the participant had not had any direct contact (telephone or face-to-face) with a restorative justice facilitator or coordinator.

Just 13 per cent of participants said that they had met the facilitator face-to-face prior to the meeting (see Table 6). This does not include cases where they were 'briefed' immediately before the meeting, nor does it include cases where the facilitator had spoken to offenders or their supporters in the police station at the point of arrest and detention for questioning. In neither of these cases is preparation likely to be effective at providing people with an informed choice about whether or not, and under what conditions, to attend a restorative session, although in both it is better than nothing.

If one includes visits from other police officers ('met with other' in Table 6) then just under a quarter of participants overall received some form of face-to-face preparation. The most common preparation is by phone call and over a third of all participants received this, although this method was substantially more often used for victims. Over a quarter of participants claimed to have been told about the meeting only through another participant (usually a family member). Thames Valley Police have produced an excellent leaflet which summarises the key aspects of restorative cautioning but this seems rarely to be sent to participants during the preparatory phase (only one of our interviewees remembered receiving the leaflet).

One offender (5017) turned up at the police station because it was his bail date, saying 'I've had no communication since the night I was arrested', and was thus taken aback to receive a restorative caution (which lasted all of six minutes). A number of supporters were told about the meeting either by colleagues or family members who had originally

Table 6 Highest level of preparation participants could recall receiving

Participant	None at all (%)	Told by another* (%)	Letter only (%)	Phone call only (%)	Met with other** (%)	Met with facilitator (%)	Total
Offender	2	25	19	34	9	10	67
O. supporter	–	29	12	29	14	17	66
Victim	–	13	3	71	–	13	31
V. supporter	–	50	–	8	33	8	12
Total	1	26	13	37	11	13	176

*These people were almost invariably told by another participant.

**These people usually met with the restorative justice coordinator or the officer in charge of the case.

been invited by the police but were then unable to attend. It follows that Table 6 underestimates the amount of preparation by the police. There were a number of cautions where the facilitator was surprised by who turned up: for example, one parent instead of the other, or where the offender brought along a friend who he had bumped into in town on the way to the caution (5015). In some cases the only preparation an offender received for the meeting was being told on the night of the original arrest that they would receive a caution on a certain date.

In their study of restorative justice schemes, Miers *et al.* (2001) found that many participants arrived at a meeting with no idea of what they were walking into. We found the same. One offender supporter commented:

'The idea I had, to be quite honest, was that all the little juvenile criminals for that couple of weeks, if you like, would be perhaps together in a room and get a talking to – do you know what I mean – or just a quick word really, or say a five minute lecture. I didn't realise it was going to be anything like that.'
(9006 OS)

Another participant, also an offender supporter, explained:

'Had I known that they were the sorts of questions that were going to be asked, it would have been nicer to have had some time to maybe prepare it and sort

of think about how I actually felt about the situation that he was in, whereas I was put on the spot rather a lot.' (9008 OS)

Inadequate preparation means that participants have no chance to think about what they might want to get out of the meeting; what they want to say; or what they want to ask of the other participants. Nor do they have the opportunity of identifying and asking appropriate supporters to attend with them. Furthermore, if participants do not know what to expect from a restorative cautioning session then what have they consented to?

Non-participant victims

Inadequate preparation before meetings also impacted greatly on our sample of non-participant victims. The Thames Valley Police training manual makes clear that: 'a service that is truly sensitive to victims will offer them real choices and be flexible enough to meet their needs' (pp. 3–8). We did not find that all non-participant victims had been given 'real choices', nor did we find sufficient flexibility in arranging meetings in which victims would feel able to participate. Furthermore, we found that those victims who chose not to attend a meeting were sometimes left 'out of the loop' once this decision had been conveyed to facilitators. Whilst most victims were given a clear choice to participate, with none feeling that the facilitator was trying to coerce them into attending the

Proceed with caution

meeting, in many cases once the choice had been made not to attend the meeting that was the end of their involvement in the process.

Most of these failings with non-participant victims have at their root poor communication. On the whole, the victims in our sample were found to have limited understanding of the process they had been asked to participate in and what their role could be in that process. Facilitators did not in most cases sufficiently make clear the distinction between simply 'going to a caution' and having a chance to meet the offender to exchange views, vent feelings, ask questions and explore the issue of reparation. The interview data suggest that decisions not to attend the caution could rarely be described as fully informed.

It is clear, from interviews with both people who attended the restorative sessions and the victims who did not, that there was in many cases inadequate preparation by the facilitator. In some of these cases the facilitator had made repeated attempts to contact the key participants but without success. Teenage offenders are often quite difficult to locate even when they live at home with their parents. They cannot be easily contacted at school and often spend a lot of time outside of their homes in the evenings and at weekends. We are not therefore saying that in these cases the facilitator made no attempt to prepare adequately the participants. Rather, we found that participants *received* inadequate preparation and undoubtedly this is *partly* due to insufficient effort on the part of those organising restorative sessions.

Participants' choices regarding attendance at restorative sessions

In two of our three areas, the cautioning session is meant to begin with the facilitator asserting that everyone is present 'through their free choice, which takes strength and commitment'; in the third area, which uses its own slightly modified version of the script, the equivalent phrasing is 'you have all freely agreed to take part in this meeting'. But is that how the participants saw it? Table 7 shows that half of all the full evaluation participants interviewed shortly after the restorative session (including nearly all victims and victim supporters) felt that they had a free choice to participate, but just over a quarter felt that they had no choice. Over two-thirds of offenders and 44 per cent of offender supporters perceived themselves to have had no meaningful choice in the matter.

The tension between the wording of the script and the reality as participants perceived it sometimes led to problems within the restorative session, particularly where there had been little preparation. The following extract from the transcript of the caution in case 9006 highlights this well. The caution had reached the point at which the facilitator had concluded his opening remarks by checking whether the participants wanted to clarify anything.

Table 7 Did participants believe they had been given a free choice to participate?

Participants	Free choice (%)	Free choice but some pressure (%)	Coerced choice (%)	No choice (%)	Don't know (%)	Total
Offenders	24	4	30	40	1	67
Victims	90	10	–	–	–	31
O. supporters	46	10	14	30	–	70
V. supporters	100	–	–	–	–	12
Total	49	7	17	27	1	180

- Facilitator (F) Do you all understand why you are here and agree that you are all present through your own free choice?
- O1S2 [the second of two supporters with the first offender] [4 sec. pause] ... Well I have to be frank and say no I don't agree. I'm here, because I received a piece of paper that said that I should be here to listen to a caution.
- F Yeah, er ...
- O1S1 [the first of two supporters with the first offender] I thought we had to attend.
- F Well, to caution, obviously, juveniles, we've got to have their parents ...
- O1S2 Right.
- F ... or an appropriate adult, preferably a parent at ...
- O1S1 You're saying that they [offenders] should be here but not particularly the parents.
- F Sorry?
- O1S1 You're saying they [offenders] didn't have to be ...?
- F No, no they have to be, they have to be here. They're the people that do have to be here ...
- O1S2 Right.
- F Yeah. Anybody could've represented your side of it ... you know, would be ...
- O1S1 As long as it's somebody.
- F Somebody of ... yeah.
- O2S1 [the first of two supporters with the second offender] So, as a technical issue what would be the alternative to being here of your own free will? I mean we've come here because we've been asked to come ...
- F You ... yes.
- O2S1 ... what's the alternative to ...?
- F Well the alternative ...
- O2S1 ... are you saying it would've been harsh?
- F It is um well no, no, no. I mean [laughs] obviously if um, if you didn't want to attend, then we can't force you to attend. We can't force anybody to attend. There are obviously other ways of dealing ...
- O2S1 With people who don't attend?
- F ... with people who don't attend. [Laughs] That is not a threat, that is a fact, you know, obviously if you don't agree to a caution we can't caution you, that wouldn't become a caution, the offenders, and that's in any circumstances.
- O1S2 Mm hm.
- F Um you're asked to be here because they are of the age they are and you are their legal guardians.
- O1S2 Mm hm.
- F Yeah?
- O2S1 I think the phraseology is pretty ... strange then.
- O1S1 Yeah.
- F In which case ... in which, which part of it, this bit?
- O2S1 Well asking whether we're here through free will ...

Proceed with caution

F Do you understand why you're here?
O2S1 Yes, oh yes we understand.
F And agree that you're all present through your own free choice?
O2S1 [2 sec. pause] Yes, in a sense.
F Yep, not happy with that a ...
O1S1 No.
F ... phrase 'cos you're not here through your own free choice. You're here because ...
O1S1 Because we have to be.
F Yeah, that'd be it basically, yep. [2 sec. pause] OK. [2 sec. pause] But you're happy to be here, now you're here?
O1S1 No we're not happy to be here at all.
F You don't want to be here?
O1S1 No.
F In what way?
O1S1 Well because my son's ... because of what, the reason that my son's here.
F [2 sec. pause] Yeah er yeah, I understand but um other than ...
O1S1 Yeah, I, I know what ...
F ... that are you, are you happy with the procedure being what it is?
O1S1 Oh yeah.
F The caution etc.?
O1S1 Yes.
F Yeah, so you understand that don't yer?
O1S1 Yeah. [O1S1 sighs and chuckles]
F [chuckling] I mean obviously if you want to leave you are free to leave but er, I can't keep you here under any circumstances.

It was rare for the language in the script to be challenged quite so forcefully as this, but the coercive aspect of many of the cases we observed was unmistakable.

Particular difficulties lie in interpreting offenders' perceptions of choice. Can they ever feel that they have a free choice to attend a caution when they perceive, as they largely do, that the alternative may be the worse fate of prosecution? Qualitative analysis of our data suggests that most of those offenders who indicated that they had a 'free choice' (just under a quarter) meant that they were allowed to choose either a restorative caution (with no victim present) or a restorative conference. Others, by answering that they had a 'free choice',

seemed to mean no more than that they were not physically compelled to attend. Two-fifths of the offenders we interviewed were explicit in saying that they had no choice but to attend the meeting:

'She said you have to come to a meeting at 4 o'clock ... I thought we have to go because it was like really serious.' (5010 O)

Close to a third more said that their choice was in some way coerced:

'It was a set thing, the way I conceived it, if I didn't come down here it would go further basically so it was in my interest to come down here and just sort of cooperate.' (5015 O)

There is also a difficulty with offenders' supporters, as is highlighted by the above exchange. Most supporters of juvenile offenders felt that the offender had no choice but to participate and that therefore any element of choice for themselves was similarly constrained given that the caution could only take place in their presence. This is evident in the following comments:

'There was a choice, but, you know, [the facilitator] was virtually saying, well, if you don't want to but, you know you may regret it.' (3013 OS)

'I didn't have a choice actually, because my mum doesn't know English, there's only my brother who could come, but he couldn't make it so I was the only one left.' (5009 OS)

In fact, the mother in the latter case did attend the caution but somewhat reluctantly. She understood from the letter she had received from the police that she was expected to attend. As her (adult) son put it:

'I think it would have been a lot easier if it was just me and [the offender] rather than having me mum there [she] never really understood what really went on ... it would have been less, less stress for especially me mother, less stressful as well ... For a start it's very hard. In our culture, ladies don't really, I mean, go anywhere like that, she didn't want to be there but then again when we said that "they've asked for you, you've got to go with [the offender], something to support him" but ...' (5009 OS)

It is important that those organising restorative cautions and conferences are sensitive to such

cultural factors. By and large, however, parents of juvenile offenders in our sample felt that they were the 'natural' supporters for their offspring, and most facilitators made this assumption too, regardless of how appropriate those parents were as supporters in particular cases. This leads us to our next question, which is whether participants were given a choice about who they would like to accompany and support them at the meeting.

Participants' choices regarding support at restorative sessions

We asked all participants if they were asked who they wanted to come to the meeting with them. Table 8 makes clear that the primary parties affected by the offence – the offenders and the victims – are not asked who they would like to support them in over half of the cases. Just over two-thirds of offender supporters and half of victim supporters are not asked who they would like to accompany them. There is a problem of infinite regression in asking supporters to bring supporters. But, as we shall see below, there were cases where 'supporters' were so emotionally affected by the offence that they would have appreciated the chance of bringing someone as moral support.

Victims

It is striking that over half (17) of the victims we interviewed reported not having been asked who they would like to accompany them. Nine of these victims were representing an institution (usually a shop) but even some of these felt a sense of

Table 8 Choice regarding support

Participant	Yes (%)	No (%)	Don't know (%)	Total (%)
Offender	40	55	5	67
Victim	34	59	7	29
O. supporter	24	67	9	66
V. supporter ¹	33	50	8	12
Total	33	60	7	174

personal victimisation and might have appreciated the chance to bring someone in support. The other eight were victimised in a personal capacity. Not all of these eight would have acted on a suggestion from the facilitator that they might bring someone in support, but some would no doubt have welcomed being given a choice in the matter.

Offenders

There was a difference between the adult offenders and the juvenile offenders, with half of the adults having been given a choice regarding supporters, but only just over a third of the juveniles. In the juvenile cases facilitators were probably influenced by para. 1.7 of Code C of the Police and Criminal Evidence Act 1984 which directs that the most suitable 'appropriate adult' to act on behalf of juveniles in custody is a parent or guardian. It would, however, be wise for facilitators not to assume that parents provide *satisfactory* supporters for an offender within a restorative justice session. As one boy, whose father had accompanied him, explained:

'In the letter ... it told me who was going to be there and it said that I had to have an adult with me. It said there would be police, someone from the police station and someone from [the food store – institutional victim] and that was it ... There should have been, like, someone on my side there.'

In response to this the interviewer asked: 'Do you think your dad was on your side?' to which the interviewee replied:

'No, not really. He was just sort of answering the policeman's questions and that.'

On being asked whether he would have liked his mum to be present as well as his dad, the youth replied:

'No, it should just be one of the parents. Otherwise they'd both gang up on you.' (5011 O)

Other young offenders had similar comments to make. To illustrate the nature of some 'supporters' contributions' we reproduce a few of the more extreme remarks made by an offender's father during a caution:

'Throw the bloody book at him if I was you. [3 sec. pause] I'm serious. I'm serious ... We speak to you all over the weekend, we told you you're grounded ... And then what, you rings up at five-thirty "oh what time have I gotta be down the police station?" You come riding along on your bike? You should be at home. Taking the piss. [2 sec. pause] Lock him up and throw the bloody keys away ... I personally feel if you [were caught in the act of committing an offence] I don't stand in the way of them giving you a beating. Give you a good beating so that you realise he's done wrong. What's happened here is nothing! [Participant's emphasis, referring to the caution meeting] This is nothing. You deserve more than this. [3 sec. pause] And I do blame the law anyway. There's no way you can't hit kids. I mean when I was young I used get a smack around the ear, never done me no harm, done me a lot of good. Nowadays you can't do that to kids and they knows it.' (9007 OS)

Whilst it may not be feasible to exclude parents from restorative sessions, it remains open to facilitators to ask offenders if they would like to nominate someone of their own choosing to accompany them in addition to their parents.

One adult offender (3001) was very satisfied with the restorative process but had one major complaint; some of the supporters that he brought along to the police station were asked to wait for him in reception and not attend the meeting. The offender felt that the letter he had received from the police gave him the opportunity to bring whoever he wanted as 'moral support' but the facilitator, because he was not expecting these supporters to attend, chose to exclude them. At the other end of the scale, uninvited participants were sometimes included within the process. One supporter of an

adult offender, when asked who had invited him to the meeting and why he had come, said:

'No one really. I was in town to cash a cheque, saw [the offender], he said "oh, I'm going to the police station", no one actually asked me, I just came ... Why did I actually come? Um, to be honest I haven't got a clue. To be honest I thought the process was um, come in here, sign a bit of paperwork, walk out, so ...' (5015 OS)

Supporters

Only 24 per cent of offender supporters recalled being asked if *they* would like someone to accompany them. Assumptions were sometimes made that one parent would probably bring the other parent, but this tended to be true only if both parents were living together. Parents of offenders sometimes felt that they would have liked to have someone else there to support them, whether a friend or another relative, especially if they were a single parent. As one woman explained:

'No, I wasn't given an option ... I got the impression that you had one representative per child ... I felt that nobody was really questioning why there wasn't two parents present. Had I not mentioned that his father was terminally ill, nobody would have questioned it.' (3008 OS)

Later on in the interview this woman told the interviewer that she had telephoned her parents the previous evening and broke down sobbing at the prospect of taking her son to the police station the following day. It is possible that she would not have felt so anxious had she been taking a supporter with her.

Discussion

A number of conclusions may be drawn from the above. Better preparation would undoubtedly reduce the number of people who felt that they had no choice but to attend a meeting, or that their choice was coerced. It would also undoubtedly

improve the likelihood of participants being supported through the process by the most appropriate people. Careful thought needs to be given to the language of the script in order that its references to 'free choice' do not jar with the realities as participants perceive them. Finally, the police need to consider whether the way in which they present the cautioning initiative to potential participants over-states the constrained nature of the choice facing offenders and their supporters. It seems that most offenders perceive that they face a straightforward choice between a caution and prosecution, whereas the reality is that the most the police could do is refer the case to the Crown Prosecution Service (CPS) for a decision on prosecution, or charge the offender and then pass the case to the CPS. There were numerous cases in our sample where we think it likely that the CPS would have concluded that the evidence, or the public interest in prosecution, was insufficiently strong to justify further proceedings. No doubt most offenders would still prefer not to run the risk of the CPS deciding to prosecute and would opt for a caution regardless of any fuller explanation of their legal position, but at least their decisions to participate in a restorative caution would become more fully informed and, thus, more legitimate.

Satisfaction with the restorative process

Despite many participants feeling that they had been forced to attend and some feeling that they were not adequately supported, the majority of participants reported themselves as satisfied with various aspects of the restorative process, as documented below.

Did participants have the chance to exchange their views freely?

A frank discussion of the harm done by the offence is a key element of the process envisaged by the restorative cautioning model. Appropriate support, as well as adequate preparation by the facilitator,

Proceed with caution

can help participants to speak up at meetings and say what they feel. But, even where preparation is poor, and support is lacking, good facilitation during the session may enable participants to feel comfortable enough to talk openly.

Notwithstanding the problems documented earlier in this chapter, over half the participants said that it was easy for them to say what they wanted to say at the meeting, with only a third finding it hard, as Table 9 shows.

Good facilitation helps participants to speak out in restorative sessions. As one offender put it:

'Oh it was easy to say. He [the facilitator] let me say everything I wanted to say ... at the end he gave the option "Is there anything else you want to say?"' (3008 O)

Moreover, it is not necessarily a bad thing that over a third of offenders found it hard to speak at the meeting. Offenders who feel ashamed of their behaviour will almost inevitably find it difficult to speak about the matter when faced with the people they have harmed. Having said this, some offenders who initially found it difficult to talk, because of feelings of shame and fear of others' reactions, gradually relaxed during the process and started to find it easier to speak. This provides evidence of the restorative process in action. The early stages of the meeting, where the group confronts and shames the offender's unacceptable behaviour, will often make the offender feel uncomfortable. However, as the meeting progresses and the group embark on the re-integrative process the offender should begin to find it easier to talk.

As one offender put it:

'At first I did [find it hard] and then as the meeting got on, then I thought, I knew they were there just to listen, not to have a go, and then put a point over across, how they felt.' (9003 O)

Such responses have been coded as 'both hard and easy'.

Occasionally when offenders explained that it was easy to speak at the meeting this could be interpreted as a sign of the failure of the restorative process, as in the following quotation:

'Um, obviously you are talking to a police officer so you got to watch what you're saying but apart from that he seemed quite a half-decent bloke and just doing his job, so I just cooperated with him and answered his questions basically ... When I was arrested, [the arresting officer] said "when you go down for your caution just apologise and don't play up, just go down and cooperate and say sorry basically", which is what I did.' (5015 O)

The restorative process, which requires facilitators to ask a number of scripted questions aimed at exploring harms done and how the group might work towards repairing those harms, requires from participants a level of understanding of reasonably difficult concepts which may be beyond the comprehension of some young offenders. Whilst it is important for facilitators to stay close to the script, this does not preclude modifying its language to make it comprehensible to young people. Failure to do so will almost inevitably result in an offender finding it difficult to respond, particularly where

Table 9 Did participants feel it was easy to say what they wanted to say in the meeting?

Participant	Easy (%)	Both easy and hard (%)	Hard (%)	Total (%)
Offender	44	18	38	66
Victim	57	23	20	30
O. supporter	54	14	32	71
V. supporter	67	–	33	12
Total	51	16	32	179

participants have received insufficient preparation. As one young offender put it:

'They asked me questions and I didn't even know how to answer them and that, because they was complicated questions.' (5011 O)

A third of offender supporters found it hard to say what they wanted to in the meeting. Whilst the process should make clear that parents of offenders are not to blame for their children's actions, some parents evidently felt a great deal of shame and regret and found it difficult to face victims in particular. Others asserted that better preparation would have enabled them to speak more openly and fully. A fifth of victims and a third of victim supporters also found it difficult to speak at the meeting. In most of these cases this was because they felt nervous and emotional about the offence, as the following quotations from a victim and a victim supporter show:

'I talked to [a colleague] just about what sort of things to say, so I say I was pretty prepared, but when I got down there, I couldn't really say it properly.' (5009 V)

'It wasn't easy. I didn't want to break down, well I didn't want them to see how much it affected me.' (9018 VS)

Another problem was the length of time between the offender's arrest and the date on which the caution meeting was held. This period ranged from nine to 284 days, with the average being 61 days. The longer this period, the more difficult it tended to be for offenders (and others) to recall exactly what they had thought and felt at the time of the offence. However, there had been an improvement from the interim study where the average time between arrest and caution had been 74 days, with a range of 45 to 124 days.

Facilitators took up a large proportion of the available 'air-time' in many restorative sessions, and this sometimes made it difficult for participants to speak as freely as they would have wished. There

were often very lengthy dialogues between the facilitator and the offender at the beginning of the process. By the time it came to the turn of other participants to speak there was sometimes a sense that they were becoming weary, or were concerned that if the process went on much longer the person being cautioned would lose all interest. It would, in our view, be helpful if facilitators more often kept the initial question and answer session with the offender reasonably concise, so that other participants were not left on the sidelines for so long. This is especially important when we consider that having a chance to tell their story was one of the main factors influencing participants' feelings that they had experienced a fair process.

Fair treatment

We asked all participants whether they felt they had been treated fairly in the restorative session. As perceptions of fairness can depend so heavily on prior expectations and understandings of what 'fair treatment' consists of, we prompted respondents to provide us with reasons for their assessments, by using an open-ended follow-up question ('why is that?'). The initial responses to the general question about fairness are set out in Table 10.

Table 10 shows that the vast majority of participants (including all but two of the victims and all of their supporters) felt that they were dealt with fairly, with only one of the offenders and three of the offenders' supporters feeling that they had been treated unfairly during the meeting. Of course, 'fairly' and 'unfairly' are relatively broad-brush categories and a few interviewees were more explicit in the extent to which they thought that the process had been fair, with 16 saying that they had been treated 'very fairly' and three saying that they had been treated very unfairly. Most interviewees explained that they felt the process had been fair because they had been given the opportunity to say what they wanted to say. It was particularly important to a number of offenders that they were provided with the same opportunity to speak as

Proceed with caution

everyone else, and that they were listened to with a degree of respect.

Mixed views sometimes reflected satisfaction with the chance to speak but annoyance at the lack of adequate preparation. Alternatively, they reflected lapses in neutral facilitation; for example, deviations into investigatory mode. It was not only offenders that sometimes found themselves subjected to what they perceived to be a form of investigation. As one offender's supporter explained, following the cautioning of an adult offender for cannabis possession:

'I think I was treated fairly, I think the only thing that put me on the spot was that question: "Do you smoke [cannabis]?"', because there's always, I thought, "what's he going to do with the information?"' (5015, OS)

The one offender who thought he was treated unfairly said:

'[No] I just felt like I was getting a grilling basically.' (5013 O)

However, this grilling was mostly from his mother – who was not an ideal supporter and who

he would have preferred not to have been there. Whilst facilitators cannot be held entirely responsible for the way that one participant treats another, especially in family relationships, good preparation, the provision of a greater degree of choice over supporters, and clear establishment of the conference aims and ground rules can significantly reduce the likelihood of such 'bullying'.

Did participants feel that the meeting had been facilitated well?

As Table 11 shows, nearly two-thirds of our participants felt that the meeting had been facilitated well.

As with many other variables about the process, the victims and their supporters seemed to be particularly satisfied. However, there was a difference between adult and juvenile offenders. Over three-quarters (78 per cent) of the adults said 'yes' compared with 58 per cent of the juveniles. This difference is probably accounted for by one or two facilitators who we observed treating adult offenders with far more respect and friendliness than juvenile offenders. This hypothesis is lent

Table 10 Did participants feel that they were treated fairly in the meeting?

Participant	Yes (%)	Mixed (%)	No (%)	Don't know (%)	Total
Offender	89	8	2	2	66
Victim	94	6	–	–	31
O. supporter	82	14	5	–	66
V. supporter	100	–	–	–	12
Total	88	9	2	1	175

Table 11 Did the participants feel that their meeting had been facilitated well?

Participants	Yes (%)	Mixed/neutral (%)	No (%)	Total
Offender	62	23	15	66
Victim	71	13	16	31
O. supporter	57	17	26	70
V. supporter	92	–	8	12
Total	64	17	20	179

further support by the breakdown of our 'most', 'mid-' and 'least' restoratively facilitated sessions by the age of the offender; half of our adults fell into the 'most restorative' category whereas less than a third of our juveniles did.

Conclusion

One of the clearest implications of this chapter is that facilitators can generate high levels of satisfaction with the procedural aspects of the restorative session across all types of participants, notwithstanding moderate or even major deviations from the Thames Valley model. The precise relationship between quality of facilitation and participants' views will be explored in Chapter 6. But the satisfaction levels are so high that it should already be clear that this relationship is bound to be a relatively weak one. There is a danger that these levels will be interpreted as

meaning that facilitation is generally of an acceptable standard, albeit that there is room for improvement. What needs to be borne in mind is that in the badly prepared cases participants had low expectations of the process, anticipating little more than an old-style caution. They were therefore pleasantly surprised when they were treated as someone whose views were worth listening to, a usual feature of even the worst-run restorative sessions. The 'bottom line' on procedural fairness is therefore that the practices taking place within the restorative cautioning initiative are generally seen as legitimate but that some of these practices deviate so sharply from the Thames Valley model as to preclude them being described as restorative in nature. If all our participants had been given a good grasp of restorative justice principles through preparation they would, we think, have been far more critical of the level of procedural fairness they experienced within the session itself.

4 Participants' views on the achievements of the restorative session

In this chapter we examine the views of the participants interviewed as part of the full evaluation regarding the immediate achievements of the meeting. The restorative cautioning model aims to bring home to offenders the harm their offences have caused, induce in them a sense of shame, yet avoid stigmatising them. These are offender-focused objectives. Other objectives include promoting a sense of resolution for all participants and leaving them feeling better than when the process started. Soon after the restorative session had been completed we asked the participants to reflect on whether these aims had been achieved.

Did the restorative sessions help offenders to understand the effects of their behaviour?

A key aim of the restorative process is to promote a fuller understanding on the part of the offender of the multiple implications of the offence(s) they had committed. We asked all participants if they thought the meeting had been successful in achieving this objective, and two-thirds answered in the affirmative. As Table 12 shows, fully three-quarters of offenders said that the meeting had achieved this aim.

The question we asked participants (including the offenders) was 'Do you think that this meeting helped [the offender] to understand the effect of [their] behaviour on other people or not?'. Negative

responses do not necessarily mean that the offender failed to grasp the effects of their behaviour, but rather that the meeting had not helped them to appreciate those effects to any greater extent. Hence the following response was coded as 'no':

'It didn't help me because I already realised it all before I came here.' (5008 O)

When these cases are excluded not many cases remain where the participants felt that by the end of the meeting the offender did not understand the impact of their behaviour. However, some participants from sessions for offences against institutional victims were equivocal about the extent to which offenders, especially young offenders, can be expected fully to appreciate the effects of their behaviour on victims. Much depends on the content and tone of the contribution made by representatives of institutions. We saw cases in which institutional victims communicated the effects of the offence on them in a persuasive and effective manner, as subsequently confirmed by our interviews with offenders. Twenty-four of the offenders interviewed had participated in sessions that concerned institutional victims but no personal victims. Of these, 20 said that the meeting had nonetheless helped them understand the effects of their offence, three did not think this, and one further offender was unsure. It was not possible to identify precisely what proportion of these 20

Table 12 Did the meeting help the offender to understand the effects of the offence?

Participant	Yes – a lot (%)	Yes (%)	No (%)	MO – mixed ¹ (%)	Don't know (%)	Total
Offender	12	63	22	–	3	65
Victim	13	55	16	6	10	31
O. supporter	10	49	21	1	18	67
V. supporter	25	42	8	8	17	12
Total	13	55	19	2	11	175

offenders were thinking here of effects in relation to their friends or families only.

In some cases it was clear that, in their quest to bring home to offenders the seriousness of their actions, facilitators and victims sometimes exaggerated the impact of the offence. This is a sure way to alienate the offender, and often his or her supporters:

'I thought it was pathetic, though, the way they were all saying how all the families of people who worked in [the food store] had been affected.' (5011 O)

If offenders do not understand the impact of their behaviour on victims and on their own families it is unlikely that they will experience shame. But understanding alone is not sufficient. Offenders also have to care about the harm they have caused if they are to feel ashamed. This issue is examined in the next section.

Did the restorative sessions make offenders feel ashamed of their behaviour?

Restorative cautioning is predicated on the notion of shaming the act and then re-integrating the actor. So it was important to try to discover the extent to which participants felt that the meeting made offenders feel ashamed of what they had done. As with the data presented in Table 12, negative responses to this question do not necessarily mean that the offender did not experience feelings of shame at the meeting. In some cases interviewees made it clear that the offender had felt ashamed of his or her behaviour before the meeting and so the

meeting had not induced the shame – in other words, the causal link is missing (hence they were coded as 'no').

As Table 13 shows, three-fifths of participants felt that the meeting had successfully induced shame, with little difference between offenders and victims in their responses. From our own observations of meetings it is clear that offenders are usually fairly subdued when talking about the offence and listening to the views of others and it was common to see their heads bowed to some degree at various points in the process. These signs were generally interpreted by participants as confirming the presence of shame, particularly where they had prior knowledge of the offender and thus knew what their normal behaviour was like. As one victim put it:

'Definitely. Definitely. Seeing him sitting there compared to what I know of him, for, I mean he's a big lad and he was cuddled up into a tiny little ball, and ... whether he actually came out of that, even when I shook his hand at the end ... he felt very, very ashamed and embarrassed.' (5009 V)

Some were explicit in their recognition of this aim of the restorative process. One offender explained:

'Oh, yeah, that's what the aim was, really wasn't it? ... To make me feel ashamed. He [the facilitator] knew what he was doing.' (3013 O)

The process does not achieve the aim of inducing shame, however, in cases where the offender feels that he has done no harm. There are

Table 13 Did the meeting make the offender ashamed of their behaviour?²

Participant	Yes (%)	No (%)	MO – mixed (%)	Don't know (%)	Total
Offender	62	32	–	6	66
Victim	61	16	10	13	31
O. supporter	56	34	4	6	70
V. supporter	83	–	17	–	12
Total	61	28	4	7	179

two main types of case where this is so. The first are what might be termed low-level miscarriages of justice, in the sense that the offender did not admit responsibility for a criminal offence and so should not have been cautioned. Four of our full evaluation cases involved *potential* miscarriages of justice. Two of these were avoided at the last minute. The first was aborted by the facilitator once it became clear that there had been no admission of guilt from the offender and the case was subsequently dropped through a 'no further action' disposition. The second involved a decision to caution a youth, along with some other youths, for an offence that his father felt he was not guilty of. At the end of a long meeting (in which all the participants, including the facilitator, treated all the youths as if they were offenders) the father refused to allow his son to sign the caution form. The boy was not cautioned and no further action was taken against him. In both cases the fact that offenders' supporters were encouraged 'to have their say' may have contributed to the dynamics of the decision not to caution (and, therefore, to the avoidance of a low-level miscarriage of justice). But restorative justice, at least as presently practised by some facilitators, is clearly not an adequate safeguard against the possibility of this type of miscarriage. Thus, in two further cases, cautions were administered despite the offenders concerned making it clear in the restorative justice session that they did not accept that they had committed the offence in question. In one of these cases the original interviewing officer had even noted on the police file that there had been 'no admission in interview'. Restorative aims cannot be achieved in such cases. As the offender in case 3003 said, when asked if the meeting made him feel ashamed of what he had done:

'I wouldn't say ashamed because I didn't know I did it. You know, the first I knew of it was when [the police took action against] me and so ... I mean I still think it was an accident. I still think I didn't really do it.'

Such cases also have the potential to cause great upset to victims since they may find themselves facing someone who they see as an offender suddenly denying responsibility and apparently escaping all punishment. We should add that Thames Valley Police have indicated their concern about the phenomenon of low-level miscarriages and asked us to prepare a more detailed analysis of how such cases are generated so that steps can be taken to prevent them happening in future.

The second type of case where shame cannot be expected is where the offender has admitted to behaviour which is illegal but which is not considered to be immoral or harmful. Possession of cannabis cases are the most obvious example of this latter type. Thus, one adult offender said the meeting had not made him feel ashamed because:

'there's nothing wrong with what I done.' (5014 O)

In other cases the offender's behaviour was not perceived as *sufficiently* immoral or harmful to create the conditions necessary for re-integrative shaming. Thus some participants felt that the somewhat abstract effects claimed by some institutional victims (such as the need to raise prices following a minor shop-theft) were unlikely to induce shame, particularly where the offence in question was common amongst the offender's peer group. As one parent put it:

'When you say ashamed, I think hopefully, yeah, hopefully it did make her feel ashamed but it might have made her feel more guilty for the upset she's caused her family and those around her, the disappointment that we've felt. I think at the end of the day, I don't think she did feel that ashamed because she doesn't understand that what she did actually did anybody any harm. And also I don't know whether this is true or not but she says; "oh everybody at school has been in trouble at least once for shoplifting", well I don't believe that for a start, I don't know what the statistics are, but it's not that rife is it?' [laughs nervously] (9006 OS)

At the other end of the spectrum were those few respondents who answered this question in such a way as to suggest that the shaming element of the process had gone too far. For example, one victim who was asked if the meeting made the offenders feel ashamed said:

'Yeah, I think so. It was a bit like a public humiliation wasn't it?' (9001 V)

This quote raises the issue of whether these restorative sessions were managing to induce feelings of shame about behaviour whilst avoiding the disintegrative effect of leaving offenders feeling like shameful people. We explored this issue with a separate question in interview and the results are discussed in the next section.

Were participants able to condemn 'the act' but not 'the actor'?

Restorative justice requires facilitators to distinguish between the offender and the offence; to make clear that the meeting should focus on the unacceptable behaviour rather than to make negative judgements about the offender. Hence the script requires facilitators to say to the group: 'It is important to understand that the meeting will focus on what [the offender] did and how their unacceptable behaviour has affected others. You are not here to decide whether [the offender] is a good or a bad person.' In theory, therefore, offenders should not leave the meeting feeling that they are a bad person, even though they should feel ashamed

of their behaviour. We asked all participants if they thought the meeting had made the offender feel like a bad person. We tried, in analysing the responses to this question, to test the extent to which participants felt that the meeting had achieved the aim of censuring the act without making the actor feel irredeemable. Hence the second column in Table 14 represents interviewees who felt that the meeting had made the offender feel bad only at first, which could be considered to be a positive result. As one victim put it:

'I would have thought so, to some extent, but I think it was turned around. I think the police officer was able to turn that around and it was distinguishing between a bad action and a bad person. I think it was [done quite well].' (9001 V)

The fourth column, however, refers to offenders who arrived at the meeting feeling OK about themselves but by the end of the meeting felt that they were bad people, hardly the desired outcome from a restorative process. Only one offender felt this way, although a victim supporter considered, in a different case, that the meeting may have had this effect.

One of the offenders who did not think that the meeting made them feel like a bad person explained:

'Um, not a bad person but someone that's done wrong, has to pay for it, that sort of thing.' (5019 O)

Another put it this way:

Table 14 Did the meeting make the offender feel like a bad person?

Participant	No (%)	At first, but not overall (%)	Yes (%)	Not at first, but by the end (%)	MO – mixed (%)	Don't know (%)	Total
Offender	55	3	38	2	–	2	65
Victim	37	7	27	–	10	20	30
O. supporter	60	5	28	–	2	6	64
V. supporter	42	–	33	8	–	17	12
Total	53	4	32	1	2	8	171

'I don't think the meeting did. The incident, that did, did make me feel like a bad person, but the meeting kind of made me feel better about myself because it made me fairly deal with the outcome of what's happened.' (3007 O)

The victim in the same case was more equivocal. Whilst she recognised the subtle aims of the meeting, she was worried about whether the offender would appreciate the distinction between act and actor:

'That's very difficult. I think it probably did, although I think that the whole meeting is set up to make them realise that you hate the sin not the sinner. And I think it's very easy to say that and you write it in the formal text of the introduction, but I think human nature being what it is, they think about what their parents think ... and I think their self-esteem does take a knock.' (3007 V)

The fact that almost a third of participants felt that the meeting did make the offender feel like a bad person (with two-fifths of offenders saying this) suggests that this interviewee's concerns need taking seriously. Our own sense is that poor facilitation was one factor in producing such feelings, with some facilitators appearing not to recognise that the point of the meeting is not just to 'shame behaviour' but also to leave participants, including the offender, with a sense of resolution and re-integration. Those facilitators who showed in the restorative session that they wanted 'to end on a positive note' displayed a much better grasp of the underlying theory of re-integrative shaming than those who talked sternly in the language of deterrence when administering the caution. But, even in cases which were well facilitated, some offenders reported that the meeting had made them feel bad about themselves. In some instances this was because other participants (usually their parents) had been condemnatory in tone throughout the meeting, whilst in others it appeared that the distinction between act and actor

was either not accepted as valid by the offender, or was too subtle for them to discern.

One potential problem, which arose in a few cases we observed, is when the facilitator includes in the caution the optional 'protective behaviours' sequence at the close of the conference. This was an amendment to the script which was not recommended in the interim study report but which some of the staff at the Restorative Justice Consultancy thought would improve the process, 'to underpin and emphasise the positive outcome', as a note to the script puts it. This sequence consists of offender-focused, therapeutic-style questions and comments. One part runs as follows:

'I said earlier that this meeting was not to decide if you were a good or a bad person. Do you think you are a good or bad person?'

This question, not surprisingly, makes little sense to participants and angers some. As one parent of a young offender put it:

'When you are told when you go there that you are not being judged on whether you are good or bad, and then when you are asked that when you are there, so ... That just put my hackles up a bit. I like to know what's going on. I don't like something thrown in like that. I came close to ... saying "right, that's enough, we are going".' (9001 OS)

Another offender supporter was similarly alarmed by this question:

'No, I don't think the meeting was trying to make him feel [bad], but I don't really think that sort of question should have been asked. "Do you feel like a good or a bad person?" You know I thought that was a lot to ask of a 15 year old in front of some strangers and two people sitting in the corner [researchers] and all the rest of it. I just thought that was quite a big question and that was a bit personal really to be getting into in front of. You know we were talking about an incident and I thought that was fine. But those sort of questions, you know those are the sort

of questions you expect a psychologist or a psychiatrist to ask, who's qualified to ask that sort of question ... I just think that's a bit heavy. That wasn't the point of ... well, I didn't think that was the point of the exercise last night.' (9003 OS)

It seemed to us that the protective behaviour sequence did more to undermine any emerging sense of positive re-integration than to underpin it. At a point in the process where the participants had moved away from focusing on what the offender had done, and were beginning to look to the future, it had the effect of training the spotlight back on the cautioned person in a way which re-ignited tensions within the room.³

Symbolic reparation: apologies at the meeting

One of the main aims of restorative sessions is to facilitate a process whereby the offender voluntarily takes responsibility for the offence. One way of manifesting an acceptance of responsibility is through apology. The model assumes that, once the offender has come to appreciate fully the effects of the offence, and to feel that the behaviour was shameful, apologies will follow. The presumption is that this will have a re-integrative effect on all the participants present, including the offender. That is why offenders are meant to be prompted into responding to what other participants have said during the initial phase of the process. Of the 72 offenders observed in the full evaluation cases, 40 per cent apologised at this point in the process. In some cases the reluctance to apologise stemmed

from a sense that the victim did not deserve an apology, or that there was no obvious victim (for example, public order cases) and no one else to whom an apology was (still) owed. More usually it stemmed from the failure of the facilitator to use the scripted prompt at all, a common feature of the 'least restorative' group of cases.

A further third apologised, or offered to write an apology to someone not present, at a subsequent stage of the process, often after some heavy prompting. Symbolic reparation (apologies planned or given in the meeting) is considered by most facilitators as one of the key variables by which they can measure the success of the process (a similar criterion to offenders' tears in old-style cautioning). When this does not flow naturally from the process, facilitators often pressure offenders into apologising. In such cases the danger is that participants will consider any apology made not to be genuine.

We asked all participants (excluding offenders) who recalled the offender making an apology to someone in the conference (even if not to them) how they felt about that apology. To avoid leading interviewees we asked a very general question, 'why do you think [the offender] said sorry?'. Table 15 shows that only two of the victims, and nine of the offender supporters, felt that the apology had *definitely* not been genuine. Furthermore, over a third of all participants felt that the apology had *definitely* been genuine. However, many of the participants we interviewed were rather equivocal on this issue (with 17 per cent of participants

Table 15 Was the offender's apology genuine?

Participant	Definitely genuine (%)	Probably genuine (%)	Probably not genuine (%)	Definitely not genuine (%)	MO – mixed (%)	Don't know (%)	Total ⁴
Victim	32	21	4	7	21	14	28
O. supporter	43	13	17	17	4	6	53
V. supporter	27	27	9	–	18	18	11
Total	38	17	12	12	11	10	92

feeling that the apology was *probably* genuine and 12 per cent concerned that it was *probably* not).

Where an apology was given fairly naturally (that is, following the script's prompt: 'Is there anything you want to say in response?') a clear majority of those hearing the apology considered it to be either 'definitely genuine' or (much less frequently) 'probably genuine'. Less than a quarter of participants felt this way where an apology was more heavily prompted.

One potential problem with cautions which are attended only by juvenile offenders and their parents is that the restorative process is re-visiting issues that the participants may have already dealt with and resolved. For example, where the young person has already discussed the harm caused by the offending and offered a genuine apology to his or her parents the caution might seem to be artificial. As one parent put it:

'Well, she was pushed on that, that was one of the questions wasn't it? "Who would you say sorry to?" Well, [she] had already said sorry at home. I imagine [the co-offender] had also apologised to her parents so I don't think they would have seen that as a time or a place to say that – it'd already been done.'
(9006 OS)

The longer the gap between arrest and caution, the greater the likelihood that this sense that the time for apology has passed will materialise. This provides another reason for making sure that cautions are arranged as soon after the offence as is reasonably possible.

Breaking down stereotypes

Restorative cautioning has the potential to break down stereotypes and challenge assumptions amongst participants. This is as important for victims as it is for offenders.

Victims' views of offenders

Victims' stereotypes about offenders may be dispelled through engaging them in a process which allows all participants to explain their experiences and feelings. This can help to alleviate victims' fears about re-victimisation and ease their anger. We found that almost two-thirds of the victims (and half of the victim supporters) who attended restorative sessions felt differently about 'their' offender because of the meeting.

Some victims came to the restorative session with preconceived notions of what the offender would be like and why they had committed the crime. Some were surprised by the youth or the apparent vulnerability of the person they met. Some were also relieved to find that they had not been targeted by the offender, but were victims of opportunistic crime. For a few who felt that the restorative process demanded a lot of the offender, their anger turned to sympathy:

'I feel sorry for him now to tell you the truth ... having to go through all tonight [referring to the meeting] ... Because I can put my son in his shoes ... sitting there trembling.' (9003 V)

In another case, a victim who had been assaulted by multiple offenders explained that he had changed his opinions of them, and had, to some extent, been able to separate the act from the actors:

'Yeah, I did. I mean, when I come back [from the meeting] everyone was like "oh, do you still hate [the offenders], you know, do you still hate them?," and I said "I do still hate them for what they've done but to speak to them, they're not that bad."' (3006 V)

One emotionally charged case produced many interviews showing a dramatic change in the feelings and opinions of the victim group. Two of the victim supporters were quite explicit in describing their move away from retaliatory feelings:

'Well ... before the meeting, if I'd seen them in the street I would have gone over and lugged them one probably, but now I've heard their side of the story I won't.' (9018, VS)

'Before, yeah, I'd love to have met them down a dark alley, sort of thing, but now you've had the meeting with them and you've spoke about it, you feel totally different. You actually find out what they're like as people – you thought they were like animals to start off with, but you find out they're actually normal people same as anyone else.' (9018, VS)

Offenders' views of victims

Some offenders started the restorative process thinking they knew what harm had been done by their offending and which behaviours could not have affected anyone. In particular, stereotypes about who 'real victims' are led to those who had offended against institutions, such as shops, making efforts to neutralise their guilt. Techniques of neutralisation, such as denying victim status, or denying the extent of harm done to the victim, or blaming the victim for provoking the assault can make re-offending more likely.

One offender had excused his assault on a young man by defining it as a retaliatory attack (there was some evidence of a fracas involving the victim and the offender's younger sister). When it became clear during the meeting that the victim had played only a very minor role in this dispute and had not assaulted the offender's sister, he became more contrite:

'It sort of made me see from ... [the victim's] point of view how they felt during the incident and sort of made me feel, well I suppose a bit guilty on my part ... well obviously guilty, well, I don't know, it just made me see stuff from their point of view, made me really think how the whole thing had made them feel ... it sort of gave me a good understanding of how [the victim] felt and ... there was a lot of things I didn't know until [the restorative session], a lot of things I found ... that made me sort of understand

the whole situation a bit better. Well, it was like, by the end of it all, I understood like basically how he must have felt and how he didn't have as much to do with it as I thought, and I basically said sorry because I felt ... well I do actually feel sorry sort of thing, because what we did really wasn't what we should have done and it actually made me think about what I did ... I suppose I just sort of went in there thinking "I don't really care", but I suppose I left there feeling a bit sorry for him in a way.' (3006 O)

Some offenders try to neutralise their guilt by persuading themselves that, even though they have committed a fairly serious offence, they have not done much damage. One boy, who was being cautioned for assault, had convinced his family, and possibly himself, that the assault was minor. The restorative session made clear that this was not the case, and that the victim had sustained quite serious injuries. The victim, who was exceptionally articulate, described in some detail the effects of the injuries. In interview the offender explained:

'I felt really guilty, speaking about what I'd done to him when I saw him, and how it did affect him and how badly he was injured ... Some of the things he couldn't have done because he was too injured just made me feel really, really bad.' (9004 O)

His contrition, at hearing the victim's story, was compelling. This, in turn, led the victim to forgive him to the extent that he was considering becoming friends with him:

'I told [the facilitator] that she could give [the offender] my phone number and even he could give me a ring and maybe we could even go to the cinema or something to let him know how, you know, he's not a bad person that he just made a bad decision and he can easily fix it and to let him know that I don't have resentment still there, that would make him, um, and his parents, realise that it's not the end of the world. I mean yes, he made a very bad decision, but it can be resolved.' (9004 V)

Proceed with caution

This victim and offender attended the same school and lived in the same neighbourhood, and were therefore likely to see each other often. The empathy that the meeting had produced between them had clearly and substantially reduced the risk of further conflict. Indeed, it is a powerful example of how victims may choose to re-integrate an offender.

Re-integration through resolution

The restorative cautioning model is partly based on the theoretical assumption that crime is best tackled by reintegrating offenders back into a law-abiding community rather than by stigmatising and excluding them. But it also assumes that victims and supporters may feel dislocated or alienated following an offence (or its detection) and that a sense of re-integration is important to them too. Asking a question directly about 're-integration' would have produced blank looks rather than usable data. As one rough proxy for this concept, towards the end of our first interview with each participant, we asked if they felt that they could now put the incident behind them. As Table 16 shows, almost two-thirds of the participants felt that they could do this, although nearly a quarter had not achieved this sense of resolution (including over a third of the victims).

It was evident that much of this sense of 'closure' amongst offenders and their supporters derived from relief that their involvement with the criminal justice system was at an end. As noted earlier, the average time it took to process a case

from arrest to caution was two months, with many cases taking much longer than that. In our interviews with offenders it became clear that one of their major concerns tended to be the length of time from detection to caution. They felt caught up within an open-ended process that made numerous demands of them (not just initially upon arrest, but also subsequently when they were required to return to the police station on bail, provide fingerprints, and meet with a restorative justice coordinator or facilitator). The following exchange in an interview with an offender cautioned for shop-theft conveys this well:

Interviewer Do you feel you can put this behind you now or not?

Offender Yeah, now I can.

Interviewer Does that mean now you can now you've had a meeting or ...?

Offender No, that it's just all over and done with I suppose. Because you never like actually know whether like, it's the end of it or, like now I know it's just like over and done with kind of thing. (5013 O)

There is no doubt, however, that some offenders achieved some easing of conscience and sense of closure through the process of accounting for their behaviour, exchanging stories, offering an apology and discussing reparation. Sometimes their sense that 'things were back to normal' was reinforced through informal conversation with the victim after the conclusion of a restorative conference, as in the following example:

Table 16 Did participants feel that they could put the incident behind them?

Participant	Yes (%)	Uncertain (%)	No (%)	Total
Offender	77	11	12	66
Victim	58	6	35	31
O. supporter	47	26	27	66
V. supporter	50	25	25	12
Total	61	16	23	175

Offender Um, yeah I do, I think I can put it behind me because I've sorted everything out with her and we talked afterwards.

Interviewer Was that in the other room?

Offender Yeah.

Interviewer What happened then?

Offender We just had a drink, and that, and we just talked; like we didn't really talk about the [offence]; we just talked about [other things].

Interviewer Was it friendly?

Offender Yeah it was quite friendly ... not just quite, it was friendly. (9004 O)

Long delays between offence and caution also caused problems for victims. In one case in our interim study, for example, a victim could not afford to get his vandalised car repaired. Compensation was readily agreed at the restorative session (one of the offender supporters, a car mechanic, mended the car himself), but this took place a full two months after the incident. In the meantime the victim's car had been off the road, which caused him much inconvenience. All the participants had been full of praise for the restorative justice process, but highly critical of the time it had taken to arrange the meeting. In this case, the matter was resolved for the victim primarily through the repair of the car.

However, the communicative aspects of the meeting were also important to the sense of resolution achieved by the majority of victims. This was particularly evident in cases of serious assault where the parties were known to each other beforehand and held different viewpoints about the offence at the outset of the process. As one such victim put it:

Victim I feel a lot better. I've got my side of it off, off my chest and they got their side, and we've both come to the decision that it was a stupid event and it should never have gone that far.

Interviewer Do you feel you can now put this behind you or not?

Victim Yeah, definitely, yeah. (3006 V)

Supporters were least likely to say unequivocally that they could put the matter behind them following the meeting. Parents of young offenders sometimes felt that they had unresolved issues to do with their children's behaviour in general (not just about whether they would or would not re-offend) and adopted a 'wait and see' attitude towards the issue of what the meeting had achieved. Some victims and their supporters also took this view, particularly where some form of material reparation or action had been promised but had not yet materialised. The common thread here is that these participants were in a continuing relationship with the offender, a relationship perceived as in some way problematic. As the following respondents put it when asked if they could now put the matter behind them:

'Eventually. Not straight away no, because I still would worry that she would let me down again, I don't think she will, but, it must sound ridiculous, but it was such a shock that she was involved in anything like that [assault]. You know, so there's some trust needs to be building up, I wish she had told me herself initially [that this had happened].' (9004 OS)

'I think that it isn't over yet because, of course, the whole agreement is something that is going to work out over many months. Because we have got this agreement to work through, it isn't concluded.' (9002 V)

Offenders sometimes felt they were unable to put the matter fully behind them because someone important had not taken part in the meeting, or because they had yet to fulfil their reparation agreement, or because they perceived that there would be longer term implications of their involvement with the criminal justice system. One example of each of these three viewpoints is given below:

Proceed with caution

'No, not for a while. Because of [the non-participating victim] and everyone who's been affected by it – until I can reconcile [sic] with them it's gonna be ... it's always gonna be there. Well, not always but until I can actually go back round there after time and speak to [the non-participating victim] like it used to be.' (3008 O)

'Once the letter's been writ and the money's been paid, I, hopefully, I hope to put it behind me. Whether or not I can, I don't know.' (3007 O1)

'Um, I think yeah, we can put it behind us. You know you don't have to go out up town at times and feel you've got to keep low and avoid the police in case they stop us. But I think they will have a sort of an eye on us from now on, because we were questioned for other [similar crimes] around [town]. Like there was a car that had the window punched through and some shop window, we were questioned about that.' (3007 O2)

Many of the restorative sessions ended with the facilitator explaining the legal implications of the caution, including that it would make prosecution more likely in the event of a further offence. In a few cases the offender was also informed that, because of some procedural oversight, they would have to attend the police station again in order to have fingerprints, photographs or a DNA sample taken. Against this background it is unsurprising that a proportion of offenders did not gain a full sense of resolution from the meeting.

Did the meeting leave participants feeling better or worse?

In an attempt to gain a further insight into the issue of re-integration we also asked participants if attending the meeting had made them feel better or worse. This question produced fairly positive responses, although over a third felt no different (see Table 17). It also generated comments about the importance of the opportunity to 'clear the air' or to 'sort everything out' as well as remarks about any related longer term impact on relationships. One offender supporter explained:

'Better, better, because it helps me communicate better ultimately with my daughter.' (9004 OS)

A quarter of people felt a *lot* better because of the meeting, and just over a quarter felt a *little* better. Very few felt a little or a lot worse. Again, the meeting made the majority of victims and their supporters feel either a little or a lot better.

Most of the offenders who said that they felt better explained that this was because it was now 'over and done with'. In other words, to offenders, and to a great extent other participants, the meeting results in a sense of resolution. Sceptics might argue that offenders were simply shrugging off the meeting as an irrelevance but this rarely seemed to be true. However, we need to be cautious in interpreting these data. Feelings as a result of the meeting are necessarily temporarily contingent. They will usually depend to some extent on how long after the meeting participants are interviewed.

Table 17 Did the meeting make participants feel better or worse?

Participants	A lot better (%)	A little better (%)	No different (%)	A bit worse (%)	A lot worse (%)	Don't know (%)	Total
Offender	30	30	30	6	3	–	66
Victim	32	39	26	3	–	–	31
O. supporter	5	20	53	9	5	9	66
V. supporter	83	–	17	–	–	–	12
Total	25	26	37	6	3	3	175

Participants' views on the achievements of the restorative session

One victim who was interviewed two days after the meeting said:

'Today I feel worse – I feel a bit bruised and battered [‘churned up’ is another expression she used earlier in the interview] but tomorrow I’ll be fine. I’ll be back at work and it’ll just be too bad. I was quite surprised at my reaction today.' (3016 V)

Participants can feel worse following a restorative justice session, yet still count it as a ‘good idea’. This might occur, for example, where offenders come to feel guilty about how much harm they caused, but think it only right that they should feel this way. For victims, too, feeling ‘worse’ could sometimes be interpreted as a positive outcome. One victim was angered by the way the offender had presented himself in the conference and did not feel either ‘better’ or ‘worse’ for the experience, but rather ‘clearer’, as she explained in the following exchange in interview:

Victim I think I was more confused than [my partner] in terms of my tug between my affections for [the offender] and the maternal side of me, and I’m not now. I think that’s one of the things that the conference did for me, that I’m much clearer now than I was. I think I’m so aware of what he hasn’t had in terms of emotional support that I let that get in the way a bit. I found it quite difficult to be angry with what he did, actually

quite appropriately angry; it’s right that we should be angry with what he did.

Interviewer And do you think the conference helped you realise that it was appropriate to be angry?

Victim I think that, when I realised he has no remorse about what he’s done, that has made me feel much more appropriately angry ... I had great difficulty in “feeling the victim” really, which may sound strange to you, at one level we almost expect these things to happen, but it doesn’t and shouldn’t justify it ...

Interviewer Having gone through the meeting, do you feel better or worse?

Victim I feel clearer about it, you know, that’s how I feel about it I think. (9002 V)

Because of such complexities it was important to ask another question to tease out a sense of whether the restorative justice session had been a productive encounter.

Did participants feel that it had been a good idea to have the meeting?

We tried to find a ‘bottom line’ for all of our participants, on how they felt about the achievements of the meeting, by asking them whether, overall, they felt the meeting had been a

Table 18 Overall assessment of meeting

Participant	Good idea (%)	Indifferent (%)	Bad idea (%)	Mixed views/ don’t know (%)	Total
Offender	70	10	11	10	63
Victim	97	–	3	–	31
O. supporter	80	–	15	5	66
V. supporter	92	–	–	8	12
Total	80	3	10	6	172

good or a bad idea. Table 18 shows that four-fifths of participants responded in positive terms. It should be borne in mind, however, that the column 'good idea' encompasses widely differing degrees of assessments, ranging from 'I suppose it was quite good' to 'the best thing since granary bread'. There is, in other words, substantial room for further improvement even if one only considers those who evaluated their experience in positive terms. Indeed, we will demonstrate in Chapter 6 that better results could be obtained by better preparation and more neutral facilitation.

Miers *et al.* (2001) found high levels of victim satisfaction with their involvement in mediation. In our own study it is evident that victims and their supporters are the participants most likely to assess the meeting in positive terms. One victim supporter explained:

'I think it was a very good idea. I think everything that's happened tonight is for the good, it's definitely going to affect everybody, um, so I mean it's a learning process for us all, isn't it.' (9003 VS)

Many victims entered restorative meetings with somewhat altruistic aims. Like many facilitators, they tended towards optimism about the deterrent and educational impact of the process. As one put it:

'I thought it was a good idea. I just felt like we'd done slightly some good, you know. It was a positive way out of a difficult situation.' (9001 V)

Offenders and their supporters rarely thought the restorative session was a bad idea, with over three-quarters feeling that the meeting had been a good idea. One explained:

'I think the main reasons it was good for me because it made me look and think about thinking before I act and never get into that situation again, and now if I ever did then I'd walk away from that trouble, all the trouble it caused.' (9004 O)

Another offender gave a similar response:

'Yeah I think it was a good idea, a very good idea. A way to sort of, I suppose, we got cautioned at the end of it, but it's a better way of doing it because you start to understand how the person you've, or the person we assaulted felt and how it made them feel and the fact that we got to hear my brother's side of the story ... and the fact that I now know that doing that is, well, doesn't get you anywhere really, just got me ended up in trouble.' (3006 O)

An adult offender felt that the opportunity to discuss with significant others feelings about what had happened was the best outcome of the meeting:

'I think it was a good idea because it got everyone's feelings out and everyone let each other know that was involved ... it was a good idea. Because otherwise I wouldn't have told my mates what I'd said, like, "I'm sorry".' (3001 O)

For some offenders, however, it was clear that they saw the meeting as good, at least in part, because it brought their involvement with the criminal justice system to a close. Those with 'mixed feelings' sometimes reflected this sense of closure at the end of the meeting combined with a perception that the process had been unfair. One offender's pithy comment sums this up well:

'Good, but bad as well. Good because it got sorted out and bad because they pissed me off.' (9002 O)

Most of those who felt it was a bad idea believed that the process had failed to impress on the offender the harm caused by their actions. As one offender's parent lamented:

'Um, for kids ... a bit younger, a bit more scared, it would be a good idea, because they are more likely to stand up and take notice of it because it's a bit frightening for them, but for kids like [the offender] and that, no, because they just laugh it off.' (9002 OS)

In this case the victims concurred with this view. In another case the offender explained that the meeting had been a bad idea:

'cos none of us learnt ... 'cos my mate [co-offender] does it again and again.' (9014 O)

We asked facilitators to give an overall assessment of the meeting too. Just over half (57 per cent) said that the meeting had been a success, with a fifth (21 per cent) feeling it had been a failure and another fifth (21 per cent) expressing mixed views. In a third of the cases where the offender(s) thought that the process had gone well the facilitator either thought that it had gone badly or had made no impact at all. Those who did more preparation were more likely to consider the meeting to have gone well. Those who considered the meeting to have been a success had spent an average of 130 minutes in preparation compared with the 67 minutes spent in preparation by those who had considered it to be a failure.

Facilitators tended to think that victims were more likely than offenders to have got something out of the meeting. In 18 (90 per cent) of the 20 meetings attended by a victim or victims the facilitator felt that they had benefited from being there. That they are usually right in thinking this is suggested by the data from our interviews with victims (see Table 17 earlier in this chapter). By comparison, the facilitator thought that the offender had benefited and would desist from further offending in just under half of the restorative sessions (46 per cent). These data are partly explained by facilitators' perceptions about

the impact of the meeting on repeat offending. The facilitator felt that 41 per cent of the offender(s) would probably re-offend in the future after the restorative session.

Conclusion

The restorative cautioning sessions we observed were, if our participants are to be believed, generally successful in achieving the multiple short-term aims nested within the Thames Valley model. By a large majority, participants believed the meeting had helped offenders understand the effects of the offence and had induced a sense of shame in them. By an even larger majority, offenders confirmed that this was so. In most cases apologies were offered or arranged and in most cases these gestures were seen as a manifestation of genuine remorse. Misconceptions about offenders and victims were challenged and sometimes shattered. Over half the participants gained a sense of resolution and felt better because of the restorative session and fully four-fifths saw the holding of the meeting as a good idea. That a significant minority of apologies were coerced and nearly two-fifths of offenders said that they felt the meeting had made them feel like a bad person are the two main areas of concern. Given that the initiative is generally meeting its short-term aims in a high proportion of cases, there is reason to be optimistic, if the theories underlying it are correct, that other longer term objectives are also being met. That is the subject of the next chapter.

5 Longer term aims

In the preceding chapter we explored the extent to which the restorative cautioning initiative appears to be successful in achieving its short-term aims. In this chapter we turn our attention to the longer term intended outcomes, including the fulfilment of reparation agreements, benefits to victims, improved relationships and a reduction in offending. We rely in this chapter primarily on the full evaluation data obtained from second and third stage interviews, conducted four and 12 months after the cautioning session respectively.

Fulfilment of reparation agreements

It is not crucial to the restorative process that a formal written reparation agreement be reached, but it is important that where such agreements are made offenders comply with their terms (or the reasons for non-compliance are accepted as legitimate). If they are not, other participants may come to feel that the offender misled them at the meeting and victims may be disappointed (e.g. Miers *et al.* 2001) or even feel somewhat re-victimised. Indeed, written reparation agreements are sometimes sought by victims precisely because they are unconvinced that an offender has really taken responsibility for his or her behaviour within the restorative encounter itself. Almost a third of the offenders entered into formal written agreements at the meeting. Many of these involved symbolic reparation only, in other words, a commitment to send a letter of apology to one or more victims (some of whom had not given any prior indication that they would welcome such a letter).

By our stage 3 interviews with victims and offenders (one year after the restorative session) the majority (59 per cent) of these reparation agreements had been completely fulfilled, some (29 per cent) had been only partially fulfilled (for example, some payment, but not all, had been made, or a letter of apology was sent but no money) and only three remained completely

unfulfilled (we could not find out what happened with one offender's agreement). A partially fulfilled reparation agreement, however, was usually seen as little better than total non-fulfilment. In one case the offender had paid a tenth of what he had promised to repay. The victim made the following observations about this:

'That's just a symptom that the thing hasn't worked. We actually suggested that the money should be paid back, not because that was important to us, but we thought it was important for him to try and work it off as it were, and if he had over a month to struggle to pay it back, having paid it back, it would be a kind of burden lifted, if you see what I mean. But we're not going to achieve that, I'm afraid. It's pretty clear that that's not what's going to happen.' (9002 V)

Victims who had not attended the restorative caution were not always made aware that they were the intended beneficiary of a reparation agreement and so were similarly unaware of any non-compliance. Non-participating victims who received a written apology were usually unimpressed by this reparative gesture, particularly where what they really wanted was an offer of compensation. Their remarks sometimes suggested something of a generational gap regarding the nature of a meaningful apology. As one adult non-participant victim put it in relation to a teenage offender's written apology:

'Well, I suppose it was decent enough to do it but it was actually written on a computer, it wasn't even like handwritten.' (3003 NPV)

To young offenders who are used to word-processing their thoughts, the use of a computer might seem the natural way to come up with the right words to convey a genuine sense of apology. They might also think that a handwritten letter would look insultingly hurried and scruffy to a victim.

Miers *et al.* (2001) found that victims generally appreciated sincere, personal letters which had

clearly been penned by the offender, with many feeling touched by the gesture. It is likely that we did not find such high satisfaction amongst our non-participant victims who received a letter of apology because of the generally poor level of communication that characterised their dealings with the police regarding their offence and the restorative caution.¹ In some cases, for example, non-participant victims claimed that the police had told them that compensation would be forthcoming and they were thus naturally disappointed when they received 'only' a letter of apology. Better preparation might result in non-participant victims holding more realistic expectations and being touched by word-processed as much as by penned apologies. It might also result in police facilitators not pushing so hard in meetings for offers of written apologies (as by no means all victims want this form of reparation).

If victims are not to be left disappointed, it is also important that the police do not put pressure on offenders to enter into agreements to pay compensation on terms which make breach likely. For example, in one case (5012) the offender was made to agree to come in person to pay a small sum at the police station on a weekly basis for the following four months despite both he and his mother suggesting that monthly payments would be preferable. An offer by the mother to collect the money from the offender and bring it in herself was also brushed aside. Not surprisingly, the regular weekly visit to the police station, hardly a good symbol of re-integration, did not materialise.

Longer term impacts for victims

Chapter 4 (Section on 'Breaking down stereotypes') considered the immediate impact of the restorative session on the victims' views about the offender. In most cases where there were short-term positive impacts there were also longer term impacts (borne out by the interviews with victims four months after the meeting and also by questionnaires

returned to us eight months after that). Most of the victims who attended a restorative conference and provided us with follow-up data reported a long-term positive (and sometimes substantial) impact, with none of them reporting any long-term significant negative feelings. Non-participant victims, by contrast, rarely reported any positive impact of their limited involvement in restorative cautioning and were much more likely to have negative feelings over the longer term.

Many of the cases where there had been a longer term positive impact were examples where a reparation agreement had been made in the meeting and had, by the time of the second interview, been honoured; either money had been paid to the victim or promises made had been carried out. For example, in case 3004 the offender had promised to talk to a co-offender (who was not present at the meeting) and persuade her to stop harassing the victim (who had been subject to low-level intimidation since the police were alerted to the assault). She had done this and it was believed to have had the desired effect:

'Well, [the offender] said that she was gonna speak to [the co-offender] and she did so ... and I know that they're not after me, and everything, so it's calmed down and I can go out ... I feel like a lot more safe when I go out, and everything ... I go out a lot more now.' (3004 V)

One of the two cases where we deemed the restorative endeavour to have had a minor negative impact on the victim produced conflicting findings at stage 2. The victim (of theft from an institution) was cynical about any impact on the offender and therefore felt that his effort in attending the session had been for nothing:

'I think this restorative justice business is all a waste of time. It doesn't hurt to let the victim actually meet the person who carried out the theft, but usually if a person goes thieving, they're not the type of person to be ashamed or sorry for what they've done.'

They're sorry to be caught, but they're not sorry for what they've done. If they were, they wouldn't have done it in the first place. Right from the very start I was thinking how futile the whole thing is.' (5001 V)

The interview with the offender at stage 2 was in sharp contrast. This man had initially been as cynical as the victim about the value of restorative cautioning. In the meeting there had been a great deal of tension between him and the victim, with the offender denying that the man facing him had been in any way harmed and refusing point blank to pay compensation. He acknowledged having caused only minor inconvenience. In interview, however, he explained to us that reflecting on the meeting after the event had caused him to change his views:

'If [the victim] wasn't there I would have just listened to what the policeman had to say. I don't respect the police whatsoever, so I'd have just said "all right, thanks, bye". But because that guy was there I took a bit more notice of the situation. Instead of saying "yes, whatever, whatever", I actually listened to what he had to say ... It's made me, like I always think now before I do something, like which you always should really.' (5001 O)

It would seem that in this case only one stereotype had been challenged. The offender's change of heart had come too late to be discernible to the victim. Consequently, the victim had been left feeling frustrated.

Improving damaged relationships

Most offender supporters (when interviewed shortly after the cautioning session) said that they did not feel differently about the offender because of the meeting. In a few cases, however, the meeting did seem to bring about a shift in the dynamics of a parent-child relationship. Indeed, during one restorative caution, we observed the young person and his mother speaking at some

length about their inability to discuss their problems. This dialogue ended with the young person breaking down in tears and pleading with his mother to spend more time with him. The process had clearly broken through an impasse in their relationship. There were less dramatic, but nonetheless impressive, results for a few other families. Overall, our follow-up interviews suggested that for 28 per cent of the offenders where we had reliable data (n=65) on this issue the process had produced beneficial effects on their relationships with their family or friends, and in none of the cases did we discover a negative effect.

Moreover, a quarter of the offenders felt that the restorative session had had a positive impact on their relationship with the police. A few offenders' predominantly negative views of the police had been jolted by the experience of police-led restorative cautioning. One offender told us he used to 'hate the police'. We asked him if the meeting had made any difference to his views:

'It did, a lot ... Before, I thought they didn't care about this, but after interviews with the police about it and going back to the caution meeting, I realised that they were ... not behind us, but they were supporting us, and weren't as evil as I made them out to be. At the end of the day, they're doing their job, aren't they?' (3007 O)

Overall, 12 per cent of all the participants felt more positively about the police as a result of the restorative process, and in only one case did the offender say that it had had a negative effect. This latter case is discussed below in the section on re-offending.

Re-offending: official and 'real' previous criminal histories

For most policy-makers the litmus test for restorative justice remains its ability to impact on offending. It is sometimes assumed that old-style cautioning was highly effective in preventing

re-offending. Indeed, follow-up studies showed that around two-thirds of those cautioned for a first offence would not come to the attention of the criminal justice system again within five years (e.g. Dulai and Greenhorn 1995). It is thus also sometimes assumed that restorative cautioning is unlikely to be cost-effective given that it was likely to make little marginal improvement to already low re-sanctioning rates, yet is bound to prove a more expensive system of cautioning. This assumes, however, that the majority of those who receive a caution do not re-offend; that their official and 'real' criminal careers tally. These assumptions are tested below. The analysis suggests that restorative cautioning may prove to be remarkably cost-effective from the point of view of potential victims and is likely to at least 'break-even' from the narrower perspective sometimes held by those responsible for operating the criminal justice system. In short, it appears that restorative cautioning has a beneficial impact on re-sanctioning rates and on re-offending rates. Before examining any further offending by our cohort of offenders, we consider their offending histories as these bear directly on their propensity to re-offend.

Six per cent of our full evaluation sample of offenders had a previous conviction before their restorative caution and 26 per cent had a previous caution. We were interested in finding out the extent to which these official records tallied with what offenders were prepared to reveal to us about their 'true' offending history. For this purpose we devised a self-report questionnaire on previous offending based on the Graham and Bowling (1995) self-report instrument used with young offenders for a major Home Office study (see Appendix 4). We used it as part of our stage 1 interview to measure offending prior to the caution and re-administered it at our final follow-up interview (stage 3) to measure any further offending in the 12 months following the caution. Of the 69 offenders who agreed in principle to complete this questionnaire, 56 completed it at stage 1 but only 35

completed it at both stages, a response rate of 51 per cent. Some of the tables in this and the following section show data on offending for more than these numbers of offenders because in some cases we have reasonably reliable data on offending from another source, such as their friends or parents, or from an in-depth interview with the offender concerned.

Analysis of the data captured by the self-report instrument showed that offending was prevalent amongst this sub-sample of cautioned persons, had often begun at a pre-teen age, and was engaged in fairly frequently (see Appendix 5). For example, 61 per cent of the 56 offenders completing the self-report instrument at stage 1 had stolen from a shop at some point in their lives, the median age at which this offence was first committed was 12, and these offenders had committed an average of three shop-thefts each in the year leading up to the caution. The average figures hide wide variations in offending patterns. For example 39 per cent of all offenders had never stolen from a shop, whilst others shoplifted on a fairly regular basis.

Whilst cautioning was often referred to by police facilitators and other participants as something that is appropriate to offer to 'first-time offenders', the reality, as far as our sub-sample of 56 offenders is concerned, is that 82 per cent of offenders were at least 'second-time offenders'. Many of these offenders committed quite a wide range of different *types* of offence. Half of our sub-sample had committed four or more different types of offence in their lifetime, with 20 per cent having committed eight or more types of offence. A significant minority of our sample self-reported literally hundreds of offences. Some of these offenders were 'prolific' because of the nature of their chosen offending (e.g. daily use of cannabis; daily carrying of a weapon 'for protection'). A few were prolific *and* serious offenders, self-reporting scores of offences of violence and dishonesty. This has implications for what impact one can reasonably expect restorative justice to make.

Nipping it in the bud is not so easy when the bush is already in full bloom. But these findings also suggest that if restorative cautioning is effective in disrupting a pattern of offending the potential benefits may be great.

Re-offending in the year following restorative cautioning

We restrict our attention in this section to the pattern of offending in the 12 months prior to the restorative caution or conference and compare this with the pattern over the 12 months that followed. This is for two reasons. First, self-report data becomes less accurate the longer the period of recall involved. Second, in assessing the impact of a criminal justice ‘intervention’ it is important to focus on the extent to which it disrupts someone’s *current* pattern of offending.

In assessing whether restorative justice had any impact on offending it is important to look not just at the frequency of offending but also at how serious the pattern of offending appears to be. We thus analysed the data by looking not only at the *persistence* of previous offending but also at the *seriousness* of previous offences, defining these terms in a similar manner to those used in the Home Office self-report study by Flood-Page *et al.* (2000).

A persistent offender was defined as one who self-reported three or more offences in the 12-month period of interest. A serious offender was defined as one who had committed at least one of

the following offences in such a period: stealing a car or motorbike; burglary; snatch-theft; threatening someone with a weapon or a beating; an assault which caused the victim to need medical treatment, and drink-driving. The definition of seriousness thus excluded some of the most frequently committed offences in our sample such as assaults not requiring medical attention, fighting in public, buying drugs, criminal damage and various dishonesty offences.

Table 19 shows that in the year preceding the restorative intervention 28 of the 57 offenders in our sample for whom we have reliable data self-reported at least one serious offence. Of these, six self-reported three or more serious offences (persistently serious), 17 reported at least three offences, one or two of which were serious (serious and persistent) and five further offenders reported less than three offences of which one was a serious offence. Roughly three-quarters of the sample were persistent offenders, in that they self-reported three or more offences, whilst roughly half of the sample self-reported only non-serious offences. Ten offenders had committed only one or two non-serious offences and none self-reported no offences (which is consistent with our finding that the longest gap between arrest and caution was 284 days).

Table 20 shows the position one year after the caution. The figures look promising in that, looking at the first three rows, only 22 per cent of offenders for whom we have reliable data self-reported serious offences compared with 50 per cent a year earlier. Similarly, the percentage of persistent

Table 19 Pattern of self-reported offending in 12 months prior to restorative intervention (n=57*)

Persistently serious	6	11%
Serious and persistent	17	30%
Serious but not persistent	5	9%
Persistent but not serious	19	33%
Non-persistent and non-serious	10	18%
No offences	0	0%

*16 missing cases.

Table 20 Pattern of self-reported offending during the 12 months following the restorative intervention (n=44*)

Persistently serious	5	11%
Serious and persistent	5	11%
Serious but not persistent	–	–
Persistent but not serious	16	36%
Non-persistent and non-serious	8	18%
No new offences	10	23%

*29 missing cases.

offenders (conflating rows 1, 2 and 4) year-on-year, has reduced from 74 per cent to 58 per cent. Almost a quarter of offenders reported no offences at all.

With so many missing cases we need to be cautious, however, about drawing any conclusions from these bald figures alone. This is especially so given that the number of missing cases increases from 16 in the year prior to the caution to 29 in the year after. It is possible that our year-after sample is skewed towards over-representing the less serious offenders. There is also the question of whether the self-report instruments were completed honestly and accurately. Following further analysis (see Appendix 6) we are confident that, these difficulties notwithstanding, our data are reasonably reliable and representative.

In some cases, however, interview data and data obtained from the Police National Computer (PNC) (see Appendix 6) added something significant to our understanding of offending patterns. We therefore looked at all the data in the round and identified a group of cases where we could make a sensible comparison between offending before and after the restorative meeting. The results are presented in Table 21. We see that almost half of our offenders increased or maintained their level of offending. However, a third decreased their offending and 19 per cent desisted.

We cannot deduce from these statistics that the restorative session resulted in almost a fifth of offenders desisting. Nor can we conclude that close to the same proportion increased their offending because of the session. For such inferences to be

Table 21 Did the pattern of offending change from the year prior to the caution to the year after? (n=48)

Increased	17%	8
Remained the same	31%	15
Decreased	33%	16
Desisted	19%	9

drawn we would need to establish a causal link between restorative justice and changes in offending patterns. Accordingly, we have analysed carefully each of our 56 case studies; looking painstakingly at everything that each interviewee told us in stages 1, 2 and 3, both about themselves and about one another, and setting that in the context of everything else we know about each case from police files, PNC records, and from our observations and transcripts of restorative cautions and conferences. Our findings are presented in the next section.

The impact of restorative cautioning on offenders' criminal careers

From in-depth analysis of our cases we consider that about a quarter of offenders were helped by the restorative session in the direction of desistance (see Table 22). This does not mean that in all of these cases the offender had fully desisted (in only four instances are we confident that this is so) nor does it mean that the meeting was the only causal factor. It does, however, mean that all of the data taken together suggest strongly that the meeting helped the offender in this way.

Table 22 Did the restorative process impact on offending? (n=51)

Yes (towards desistance)	14	27%
Yes (towards recidivism)	1	2%
No impact	36	71%

Should a net shift towards desistance across our sample of 25 per cent (excluding missing cases) be taken as evidence of ‘relative success’ or ‘relative failure’? This depends on one’s expectations. We do not know of any study of old-style cautioning which could be used as a statistical yardstick by which to measure the additional effectiveness, if any, of restorative cautioning. This is because existing studies of the effectiveness of old-style cautioning use either re-conviction or re-sanctioning data as a proxy for re-offending, whereas our study has focused on genuine re-offending. However, if restorative cautioning is substantially more effective in preventing offending than old-style cautioning one might expect this to be apparent in a comparison based only on re-sanctioning data. The best available comparison is the study by Hine and Celnick (2001) which, like our study, is based on a one-year follow-up period; takes into account all further sanctions (cautions as well as convictions); excludes pseudo-re-sanctions;² is based on data from the Police National Computer; and includes all criminal offences. They drew a sample of 4,718 youths aged between ten and 17 who were cautioned in 1998 and found that 29 per cent were re-sanctioned within a year of the caution. Of the 56 ten to 17 year olds in our final evaluation sample who went through the restorative process, just 14 per cent (eight) were re-sanctioned within a year of the restorative caution or conference. To the extent that it is reasonable to regard the Hine and Celnick study as providing us with baseline data on the apparent impact of old-style cautioning on the likelihood of young offenders being re-sanctioned, this represents a reduction of 15 percentage points.

Put another way, restorative cautioning might be regarded as having halved the likelihood of re-sanctioning within one year. Whilst this is consistent with the hypothesis that restorative cautioning is more effective in preventing re-offending than old-style cautioning, there are some important caveats to enter here.

First, our sample is very small for the purpose of this kind of statistical comparison. Nonetheless, the difference between the two samples’ re-sanctioning rates is sufficiently great to reach the level of statistical significance at $p > 0.05$ (i.e. there is no more than a 1 in 20 probability that the difference has arisen by chance). Second, it is possible that we allowed too short a period of time for any re-sanctions occurring within the year following the restorative caution or conference to have been recorded on PNC. This is unlikely to be a major distorting factor given the minimum period of five months we allowed for this process to take place. Third, our offenders may differ from those in the Hine and Celnick sample in a number of important ways. Age, gender and history of previous sanctions are all known to be statistically good predictors of re-sanctioning. For example, if our sample had proportionately fewer offenders who were male or with no previous history of recorded offences then one would expect a lower re-sanctioning rate to be achieved by comparison with the Hine and Celnick sample regardless of the differences between old-style and restorative cautioning. We must therefore consider whether we are comparing like with like. Table 23 demonstrates that it is reasonable to conclude that the differences between the two samples are so slight as to allow us to say that we are comparing like with like to an acceptable degree.

Fourth, the changes to the youth justice system that were in the process of being introduced when we drew our full evaluation sample (January to April 2000) make direct comparison with the Hine and Celnick sample drawn in 1998 somewhat problematic. There are two potentially confounding

Table 23 Comparison between 1998 ‘old-style caution’ sample and 2000 restorative justice sample

	Hine and Celnick 1998 sample (n=4,718) (%)	2000 sample (n=56) (%)
Proportion who are male	75	73
Proportion with previous conviction	7	2
Proportion with previous caution or conviction	21	23
Mean age	14.3	14.5

factors that need to be taken into account. The first is that more of our 2000 sample may have experienced some kind of intervention (over and above the restorative justice element) than was true of those in the 1998 national sample. We do not think this is the case as hardly any of our sample had experienced any kind of additional intervention, whether from the new youth offending teams or from elsewhere. The youth offending teams did not officially begin work until April 2000, and even then their level of activity was low as they experienced the inevitable teething difficulties. There was no discernible increase in the level of additional intervention in our 2000 sample of cases as compared with the cases studied in 1999. The second is that the time taken to process cases through the system is known to have been reduced in the last few years as the current Government’s strategy of ‘speeding-up’ youth justice has begun to bite (Hine and Celnick 2001, p. 17). This means that one would have expected the 2000 sample, all other factors being equal, to have a worse re-sanctioning rate over a one-year follow-up. Overall, it seems fair to say that the comparison with the Hine and Celnick sample is valid, and that the differences in the re-conviction rates are likely to be due to differences in the treatment of the two groups. Whether the apparent difference in effectiveness between old-style cautioning and restorative cautioning is sustained over a longer follow-up period remains to be seen, and this is something we intend to study in the future. We also acknowledge the need to conduct a much larger scale comparison of old-style with

restorative cautioning and we plan to do this in 2003.

We now consider the characteristics of the cases in which we judged restorative justice to have had a causal impact on offending patterns. We deal first with the only case in which restorative justice, or at least something masquerading as such, appeared to have made offending worse.

Making offending worse: a case study of implementation failure

In case 9012 the offender was reported by a beat police officer for a minor traffic offence and attended a restorative caution in the presence of one parent and an experienced and highly trained police facilitator. The offender and supporter were required by letter to attend the police station at a particular time and were not aware that the offender was to receive a caution. The caution lasted for 40 minutes and much of the discussion revolved around the legitimacy of the beat police officer’s actions. The case was not only adjudged by us to have been in the ‘least restorative third’ of our sample but was actually the case adjudged the least restorative of all of the 54 processes we categorised in this way. When asked how much preparation had been undertaken in the case, the facilitator replied ‘didn’t do any’. The facilitator also admitted that: ‘I find it very difficult to follow a script when you’ve got an offender that’s sitting in front of you that doesn’t think he’s actually technically done anything wrong, and to a certain extent you agree with him’. Analysis of the caution transcript confirmed that the session bore little

Proceed with caution

resemblance to the restorative justice model adopted by Thames Valley Police. Indeed, the facilitator spent much of the session rationalising the reporting officer's behaviour in the face of sustained criticism by the offender and the supporter. All attempts to convince the offender that the caution was legitimate foundered, however, as in the following example:

Facilitator So why do you think that [the reporting officer] is concerned about what you were doing?

Offender Because he's a plum.

The discussion meandered on until the facilitator finally threw in the towel by saying: 'Right. Guess I'd better get you to sign the caution form then.' In interview afterwards the facilitator conceded that:

'We could technically "no further action" it, but they've signed the caution papers and they're obviously happy about that. If they'd have argued the toss I would have turned round and said "Right, we're not cautioning it" because they were obviously confused about what the beat officer has done.'

Other interview data at stage 1 revealed that the offender felt that the meeting had been pointless and the caution unfair. The supporter suggested that the facilitator should have telephoned the family rather than just sending them an ambiguously worded letter: 'maybe a bit of a two-way conversation would actually decide whether [a caution] was actually necessary or not'. Four months later we carried out stage 2 interviews. The offender had no thoughts about the meeting and still held a low opinion of the beat officer who reported the offence. The supporter was more positive, thinking that the meeting might have deterred the offender from repeating the offence in respect of which the caution was administered.

A year after the caution, in a stage 3 interview with the offender, the following exchange took place:

Interviewer Do you think that you've done anything since the caution that could have got you into trouble?

Offender Yeah, I could have been in trouble with the police.

Interviewer Yeah? What kind of things?

Offender Just messing about at night-time disturbing the peace and stuff like that.

The stage 3 interview with the offender supporter concluded as follows:

Interviewer Is there anything else you would like to say about the meeting or what's happened since?

Supporter I think the long-lasting effect is Sam's just got no respect for the police, he still hasn't now because of what he went through for no reason basically, so it's a shame but that's just the way it goes ... It just gets worse sort of every time he sees, well, any of the police now. It's got worse over the last year ... with sort of cheekiness and what have you. He's just cheeky, swears at them, he thinks it's funny you know. It's just had the opposite effect to what it should have had really ... [The caution] was about the last straw as far as Sam was concerned. A real shame how it turned out because I did bring them up to have a lot of respect for the police, you know, they'd always been there for us if we'd been burgled or the children were lost, anything along those sort of lines, I'd always put a lot of faith in them and I brought my children up that way and the beat officer just spoilt it really.

Interviewer And the meeting at the police station has not made things better, it's made things worse you think?

Supporter Yeah, yeah, definitely. It's like the last straw really.

Self-report data confirmed that the offender's criminal behaviour had increased and diversified. Our overall conclusion is that the offender was somewhat deterred by the caution from committing the traffic offence again but so resented the police response that he had entered into a criminogenic relationship with police officers in general in which public order offences featured heavily. It is worth emphasising that this is not a failure of restorative justice, but a failure to implement restorative justice. There are various fairly obvious 'learning points' here. In particular, the case highlights the importance of compliance with our interim study recommendation that facilitators should always speak in advance with all the parties invited to a restorative justice meeting. If that recommendation had been complied with then, as the supporter herself noted in interview, the issue of whether a caution was appropriate at all could have been reviewed.

Promoting desistance: accounting for the success of restorative justice

There were few obvious common characteristics amongst the 12 cases where the restorative intervention appeared to have a causal relationship with reduced offending. Seven of these cases had involved restorative conferences with victims present but the remainder were victimless cautions. It is noticeable, however, that all of the 12 cases in which restorative justice was linked to a reduction in offending involved an identifiable victim. Eight of these effective cautions were for shop-theft, two for assault, one for burglary and one for leaving the scene of an accident. Cautions for cannabis use, for minor traffic offences and for public order matters were invariably ineffective in this sense. A process which aims at inducing shame is clearly problematic in respect of offences which are widely regarded as relatively trivial and harmless.

A case-study approach is helpful in understanding how restorative cautioning impacted on offending careers. At the start of this project we were somewhat sceptical that restorative cautioning would have any beneficial impact on patterns of offending if implemented badly. There are, however, three 'least restorative' cases in the full evaluation where there appeared to be such an impact and it seems worthwhile exploring how this surprising result was achieved.

Case 5010 was adjudged a 'least restorative' case on the grounds that the facilitator had not spoken with the two offenders (both in their early teens) prior to their restorative caution, slipped into re-investigating the case rather than facilitating storytelling, did not ask the solitary supporter what she wanted to see coming out of the process, dominated the discussion about reparation (forgetting to 'theme in' the victim's views) and concluded on a predominantly negative and deterrent note. The facilitator spoke 69 per cent of all the words spoken during the session, with the other three participants saying relatively little. On the other hand, unlike in case 9012 (discussed above) where offending was thought to have been made worse by the intervention, the format of the session was recognisably that of the Thames Valley model inasmuch as the facilitator began by asking the offenders to describe their thoughts and feelings at the time of the offence and then went on to ask them to reflect on who they had affected by their actions. A similar set of questions was then put to the supporter. The issue of reparation was raised and a (heavily prompted) agreement to send a written apology reached. The offenders proved to be quite compliant with the process, and the supporter spoke of the shame that the offence had brought upon her family, as this extract from the caution transcript indicates:

'a few [other] families found out and basically it's all about respect innit. Like we just lose respect. Basically, those two, I don't trust them anymore.'

Proceed with caution

Later in the process, when asked by the facilitator, 'Do you think you need to do anything to put things right?', one offender answered:

'Yeah, making [the family] to trust us and, like, that they will know that we won't do this again.'

Follow-up interviews revealed that both offenders felt the meeting had been fair, had helped them understand the effects of their actions and made them feel ashamed of what they had done. One said: 'I used to nick every single day' and added that the meeting had made him 'stop doing like nicking stuff'. The other showed a fair understanding when asked about the purpose of the meeting: 'To know that I shouldn't nick again and shouldn't do those things. It was wrong. And how other people feel about me', later concluding, when asked if the meeting had been useful, 'I think I really, you know, learnt my lesson and I learnt a lot of things'. The supporter also believed the meeting had been very useful and confirmed that the two offenders were keeping out of trouble. In his comments he drew a distinction between the format he had expected the caution to take and the meeting as he experienced it:

Supporter I think what [the police] done was good, basically, talking about it and that. I didn't know that was going to happen. I thought a caution was, what it is, basically they take you to a police station and they just tell you what you did was wrong, but here like there's a lot of difference. They ask for their views and points and that.

Interviewer And do you think that's a better way?

Supporter That's the best way, yeah.

Interviewer Why do you think that's a better way?

Supporter Basically like you're asking the offender why he done it and that, then like you make him look guilty and that: "what

you've done is wrong and don't do it next time".

Case 9013 was another 'least restorative' case which appeared to promote desistance. In character it was much like the case just described, in that the facilitator dominated the discussion (accounting for 68 per cent of all words spoken), extracted a promise to write a letter of apology to the absent victim, but nonetheless followed the restorative justice format as far as the structure of the session was concerned. Self-report data suggested that this offence was a one-off with no other offences reported either in the year prior to the caution or in the year that followed. In an interview which took place a month after the caution the supporter spontaneously identified a causal connection between the meeting and what he saw as his son's improved behaviour:

'I felt very bad about him at the time, before we went to the meeting, definitely, yeah, but after the meeting I looked at him and I realised that the meeting had done something to him. It sort of, I think he saw another side of himself, "it's not for me", like, you know, "it's not for me to get in trouble no more and I'll try to change my ways", that's what I thought when I looked at him after.'

Three months later the supporter remained positive, describing the meeting as 'definitely useful ... not only to me, to my son as well, so he understands things a little better now'. He also said that his relationship with his son had improved since the offence. When asked if the meeting had any part to play in that he responded: 'Yeah, it could have. I say that's when it started, yeah, because he was looking at me and [thinking] "oh what have I done wrong dad?"'. Interviews with his son were not particularly productive. However, he did tell us that the meeting was 'very useful' and that he felt he had changed over the last few months by 'staying out of trouble and all kinds of stuff like that ... because I've learnt my lesson'.

The third of the three 'least restorative' cases

(9014) which appeared to have reduced offending differed from the above two examples in that a victim was present. In addition, it was over twice as long as either of them (lasting for 80 minutes). This was largely due to the facilitator engaging in lengthy close questioning of the offenders at the outset before encouraging the meeting to become more of a 'free-for-all' style of discussion. One effect of this was that the adults present dominated the exchanges, with the two offenders present saying very little other than to confirm repeatedly (on demand) that they were sorry, that they would not do it again and so forth. Nonetheless the 'free dialogue' approach did have some benefits in that there was a considerable amount of empathetic discussion between the victim and the offenders' parents and a sense amongst them that a useful moral lesson was being taught. As one of the parents put it at one point: 'I think if they'd had things like this when we was younger, it [crime] wouldn't have happened so much'.

We were unable to monitor the outcome of the conference in relation to one of the offenders. The other offender had been seen as something of a lost cause by all of the adult participants (including the facilitator) in the stage 1 interviews carried out soon after the process concluded. At stage 2, a few months later, the assessment by the offender's mother remained bleak: 'I don't think it's going to deter him at all. I think he's going to be one of these [criminals] until he gets something serious he ain't gonna bother ... I think if he was in town he would do it again.' Later in the interview she conceded, however, that:

'He has calmed down quite a lot with me. I mean he does try his hardest to help and that now, and I mean he is behaving a bit better so yeah, I mean, I hope he does get on the right track, but where we live and that, and the people he knows, I don't think there's much chance of that at the moment.'

In his stage 2 interview the offender told us that the meeting was useful. When asked why, he replied bluntly: 'It stopped me from doing crime'. He also felt that the meeting had resulted in an improved relationship with his mother 'because I speak to her a lot more than I used to'. At stage 3, a year after the caution, the offender again confirmed this view of events, stating clearly that the conference had stopped him from getting into trouble again. Remarkably, in her stage 3 interview the offender's mother revealed that she was no longer sceptical about the value of the restorative meeting. The key exchanges are worth quoting:

Interviewer Have there been any important changes in his life since the meeting?

Supporter Well I mean he hasn't been into any trouble, so that's an important change. No, he's been in no trouble at all. I think he has actually got the message now. [Reflecting back on the meeting] It didn't look like he was listening but deep down I think he was.

Interviewer Yeah?

Supporter Yeah, I think [the meeting] did do him some good.

Interviewer What's your relationship with him been like over the last few months?

Supporter Fine. Fine, we've been getting on real well.

Interviewer So why do you think he's changed?

Supporter I think he has changed his attitude because he knows I was trying to help him more than like get him into trouble, I was trying to help sort him out.

It seems from these three cases that simply bringing people together to discuss their concerns about a clear-cut offence within a process that shows at least some commitment to the principles

of restorative justice can make a difference to offending patterns. The mechanisms at work are complex, but at their core seems to be the requirement for the offender to reflect on the offence and its effects at some length and to be exposed to the feelings of others about the matter in a way which makes it difficult to ignore those views and emotions. Even in cases of weak implementation these elements are often present.

Changes in attitudes towards offending

It is not surprising that the majority of restorative sessions involving identifiable victims (whether or not present) did not result in any reduction in offending. There are, as the vast literature shows, many different factors that lead to the onset of offending and recidivism (such as family break-up and school exclusion), and various factors are associated with desistance from offending (such as getting a job or winning the National Lottery). It would be naive to assume that a restorative process, even one carried out perfectly, could dramatically change offending in every case in which it is deployed. Therefore we sought qualitative data on changes in the offenders' attitudes towards offending. For some offenders it appeared that there had been a positive change in their attitude but other factors in their lives meant that a cessation or reduction of offending had not, as yet, been achieved. Table 24 shows that for nine offenders there had been a big change in their attitudes. Interestingly, it also shows that almost

Table 24 Changes in offenders' attitudes to offending (n=64*)

Large positive change	9	14%
Small positive change	22	34%
No change	32	50%
Small negative change	1	2%
Large negative change	0	0%

*Nine missing cases.

half had changed their attitudes to some extent.

Only one offender was found to have a more negative attitude towards offending following the restorative caution. This was the 'least restorative' case in our sample (9012) in which, as we described above, the cautioning session had also made actual offending worse.

Conclusion

In a substantial minority of cases we found evidence of a causal link between the restorative cautioning session and long-term positive outcomes. Notably, 28 per cent of offenders reported at least some improvement in their relationships with friends or family, and a few victims had clearly gained a great deal from the experience of meeting 'their' offender. The fact that formal reparation agreements were fulfilled in two-thirds of the cases in which they were made is of much less significance given that many of these agreements extended no further than writing a letter of apology to a victim. This study was not conceived as a rigorous inquiry into the precise impact of restorative justice on offending. Nonetheless, the positive findings on repeat offending are consistent with the sprinkling of well-designed research evaluations that have been published in recent years which suggest that restorative justice can make an impact on an offender's criminal career (Maxwell and Morris 1999; Sherman *et al.* 2000).

These achievements carry a price tag. A well-prepared restorative session will inevitably put greater demands on police and other resources than a quick telling-off by the duty inspector in the custody suite. Thames Valley Police has estimated that restorative sessions cost the police about £60 a session more than an old-style caution. The average number of participants at these sessions is four; hence restorative justice 'costs' about £15 extra for each participant. However, most policy-makers today recognise that such discussions of cost in the

abstract are largely meaningless. Cost-effectiveness would seem to be their goal. Whilst reliable data on cost-effectiveness was beyond the remit of this study, and would require the skills of econometricians, our findings suggest that such a study would produce favourable results for restorative justice. Part of the cost-effectiveness of the initiative is likely to inhere in its nature as setting out to transform an existing (and fairly costly) process rather than setting up a brand new scheme requiring premises, new staff, office equipment, marketing to gain caseloads, and so forth. The impact of restorative cautioning on re-offending (reflected in less repeat business for the criminal justice system) has thus been achieved at remarkably little cost. When one considers all the other positive achievements of the initiative, such as breaking down stereotypes and improving relationships, the conclusion of a rigorous cost-effectiveness study would seem to be easy to predict.

There is an important distinction, however, between the claim that restorative cautioning reduces re-offending and the broader claim that restorative justice cuts crime. It is theoretically possible, for example, that restorative justice is undermining general deterrence and thus generating more crime than would otherwise have occurred, i.e. other offenders may for some reason

be less deterred from committing crime by the prospect of a restorative caution. As far as we are aware, no one has yet conducted a study of that issue. Moreover, we know from the criminological literature that some criminal activity displays characteristics of the marketplace. When some stop 'supplying crime', others may enter the market to take their place. Thus criminal opportunities that might have been exploited by offenders but for restorative justice may instead now be exploited by others. This phenomenon is most likely to occur in the context of organised crime, such as the supply of drugs, and is unlikely to be a major factor in this sample. Nonetheless, if restorative justice initiatives are sold as a means of cutting crime, unrealistic expectations will be generated and the eventual backlash may inflict fatal wounds on a development which, unlike most criminal justice programmes, has much to offer apart from crime reduction.

Precisely how much restorative justice has to offer within the context of cautioning is difficult to determine from this study alone, as many of the processes we observed were poorly facilitated and scarcely merited that label. As we shall see in the next chapter, better implementation in the future would be likely to produce substantially better aggregate results.

6 The relationship between quality facilitation and satisfactory outcomes

In this chapter we examine the question of whether high quality facilitation is linked to positive outcomes. Table 4 showed the number of cases which fell into the categories least, mid- and most restorative in our full evaluation, and Table 25 shows the number of participants which fell into each of these three groups.

We hypothesised that on a few key variables (discussed on an aggregate level earlier in this report) there would be a correlation between ‘positive’ outcomes and quality process. These were:

- 1 whether or not participants felt that the meeting had helped the offender to understand the effects of his behaviour on others
- 2 whether participants felt that they were treated fairly in the restorative meeting
- 3 whether participants felt that the restorative meeting was facilitated well.

Whilst many other outcome variables might be partly explained by factors other than the quality of the facilitation of the restorative meeting (for example, a sense of resolution may be produced by relief that involvement with the criminal process is at an end), we were confident that these three variables could tell us something useful about the relationship between process and outcomes.

We found that the better outcomes tended to result from the more restorative processes. Table 26 shows that, whilst the majority of participants were satisfied, thought that the meetings had been run well, and had achieved one of their main aims, they were more likely to feel positive if they had experienced one of the most restorative meetings as compared to the least.

In order to show the stark contrast between good practice and poor practice we have provided data on the ‘least’ and ‘most’ restorative groups of cases only. Not surprisingly, some of the cases

Table 25 Proportion of participants in most, mid- and least restorative cases (n=186)

Least restorative	59	33%
Mid-restorative	37	21%
Most restorative	83	46%
Total in categories	179	100%
Interviews in the two cases excluded from categories*	7	

*One of these cases was aborted early in the process following a denial of guilt and the other did not involve a formal caution.

Table 26 The relationship between quality process and positive outcomes¹

Outcome variable	Percentage of interviewees from the <i>most restorative</i> cautions saying yes	Percentage of interviewees from the <i>least restorative</i> cautions saying yes
Did the meeting help the offender to understand the effects of his behaviour?	80	56
Did participants think they were treated fairly in the restorative meeting?	92	84
Did participants think that the meeting was facilitated well?	71	54

which were in the middle group had elements of really good and elements of really poor practice which meant that, taking into account all outcome variables, the mid-restorative cases occasionally achieved as much as the best cases or as little as the worst cases.

A striking finding revealed by Table 26 is that the great majority of participants in the 'least restorative' cases said that their treatment was fair (although not quite as many as in the 'most restorative cases'). At first sight this cuts against our argument that quality of process matters. But in fact it reinforces it. The least restorative cases were adjudged as such, in part, because participants had received little preparation. Because of the poor preparation they had received, they expected little more than an old-style caution and were thus pleasantly surprised by the degree of procedural fairness they experienced. Simply creating a safe environment where people can talk, on a roughly equal footing to everyone else, about the harm that has been done, results in very high satisfaction rates, almost regardless of how well the police facilitate these meetings. By contrast, the most restorative cases were adjudged as such, in part, because participants had received preparation directly from the facilitator. One consequence of this fuller degree of preparation is that participants came to the meeting with higher expectations of procedural fairness. The fact that 'their' facilitators seem to have met or surpassed expectations more often than was true in the least restorative cases suggests that very high standards of procedural

fairness were achieved in these cases.

It is much harder to be sure that quality of process is linked causally to the outcome of reduced offending. Here there are many other variables at work which we are unable to control for in a rigorous way. We can go no further than saying that the pattern of results we found is consistent with the pattern found in Table 26. Thus, of the 12 cases linked to reduced offending, six were adjudged to fall within our 'most restorative' group of cases, two were of 'mid-restorative' quality and three were in the 'least restorative' third of cases. The twelfth and final case was not subject to this mode of classification because it involved a 'voluntary' process in which the script was used only loosely and no caution was administered.

Looking just at offenders, we found that quality of process was once again associated with positive outcomes in relation to the impact of the cautioning session on their relationship with the police (see Table 27).

This chapter establishes that quality of process is linked to positive outcomes. It also provides a reason for the police facilitators we observed to adhere closely to the restorative cautioning model and the script which derives from it. Some facilitators appear to believe that running sessions according to their own instinctive feel of what is appropriate will achieve better results than 'sticking to the script'. Whilst flexibility is certainly needed in the use of the script, the empirical evidence strongly suggests that facilitators who

Table 27 The impact of restorative sessions on offenders' relationships with the police

Quality of facilitation	Significant positive impact (%)	Minor positive impact (%)	Significant negative impact (%)	No impact (%)	Total
Least restorative	–	13	4	83	24
Mid-restorative	9	9	–	82	11
Most restorative	15	30	–	55	20
Total	7	18	2	73	55 *

*18 missing cases.

Proceed with caution

keep within the parameters it establishes for their role will achieve the better outcomes, particularly if they prepare the participants properly in advance of the session.

7 The place of restorative cautioning in the criminal justice system

In this chapter we consider participants' views about the role restorative cautioning should play within the criminal justice system. The data presented bear on current debates about the future of restorative justice in this country.

Participants' feelings about restorative justice and punishment

One of the criticisms of restorative cautioning, often heard in the current 'tough on crime' climate, is that it is a soft option. In other words, critics are worried that it lacks any punitive bite. Miers *et al.* (2001) found that some victims were sceptical about the motivation of offenders to take part in restorative justice, with some feeling that the offender had got off lightly.

The restorative caution is but one part of the criminal justice response to an offence. Before they arrive at a caution the offender might have been arrested, held for several hours in a police cell and, in the case of juvenile offenders, received some sort of summary punishment from their parents, by way of the removal of certain freedoms or privileges or even physical chastisement. Moreover, the caution is recorded and hence may lead to greater police interest in an offender's behaviour in future, a greater likelihood of prosecution if arrested, and potentially a more severe sentence at court. As one offender put it:

'Yeah I think I've been punished ... I am now on my second life so to speak ... I can't put a foot wrong

now without being leaped on. Apparently the police do tend to watch out for you and they put you on records and they can hassle you for a bit afterwards which I'm expecting ... I've got to make sure I don't do anything wrong.'

However, when asked if he thought that the meeting was part of the punishment he replied:

'No, no. It's not fair to say that it's part of the punishment because it's helping me in the long run I suppose.' (5008 O)

We sought to discover the extent to which participants (including the offender) considered that the offender had been punished for their offence. First we asked all participants a general question about whether they felt that the offender had been punished for their crime. Sixty-four per cent thought that they had been sufficiently punished, with another 9 per cent saying that they had been punished but insufficiently. Only 17 per cent thought that they had not been punished at all. The majority of these were offenders and their supporters; only four victims and three victim supporters thought that the offender had not been punished at all. We then asked whether participants felt that the meeting was part of the punishment. The results are set out in Table 28.

Almost two-thirds of participants felt that the meeting had been part of the offender's overall experience of being punished for the offence. Some of these made clear that they had not expected this before the restorative session. Indeed some had

Table 28 Is the meeting part of the punishment?

Participants	Yes (%)	No (%)	Don't know (%)	Total
Offender	50	44	6	64
Victim	68	26	6	31
O. supporter	70	27	3	67
V. supporter	67	25	8	12
Total	62	33	5	174

thought that a caution was tantamount to being 'let off'. For example, one victim responded thus:

'Before [the caution] I would have said no. I would have thought they would have just been let off with a caution [but now] I think the meeting has [been part of the punishment] in two ways. I think it's beneficial because it confronts [the young offenders] with [the victims] and that's a good idea, and I feel now that it's also shown the likes of us that were stolen from that it is an ordeal for the parents and the kids to be there and that alone is punishment.' (9001 V)

Another victim in a different case explained that, whilst she did not think the restorative session should be thought of as 'punishment', she did think that it was a more effective way of making offenders realise the effects of their behaviour:

'I didn't see it as punishment. I saw it as the best way of making them see what they'd done. I thought if they'd have just gone to court, with a slap on the wrist, they'd have gone away and thought "right, that's it, it's over", whereas now they knew they had to speak to me about it. And speaking to the person they had done it to, and to the parents, is very hard. I think that would have been very hard for them.' (9004 V)

An offender in a different case made a similar comment:

'Well, yeah because as I say, it made us see the error of our ways, you know what I mean. I think [if we had] walked in a court room and had a fine ... or they'll say "we judge you" as doing this that and the other, blah, blah, "you will do 50 hours' community service and pay £100", and you think "all right", like, and walk away ... I think [the restorative session] just talking it over like, that made us see sense a bit. You know what I mean, or more sense like.' (3006 O)

Ultimately, as some participants commented, the offenders received a caution, and this is a

penalty and, therefore, a punishment. As one victim supporter explained:

'In general, I think he's, he's feeling punished to a certain extent because it's the shock of knowing that he's got a caution. When he signed the caution sheet I noticed his hand was really shaking and he looked as if he was going to burst out crying. He was biting his lip. I was watching him. I think he was genuinely scared stiff to tell you the truth.' (9003 VS)

The reality, as this comment highlights, is that cautions do have a punitive bite in and of themselves. This reinforces our sense that it is counter-productive, unnecessary and unfair for facilitators to seek to intensify the punitive–deterrent aspects of a restorative session, as we sometimes observed them doing in the least restorative sessions.

What should happen to repeat offenders?

Despite the high levels of support from participants for restorative cautioning as measured by a whole range of variables (see Chapters 3 and 4), very few participants felt that if the offender was caught re-offending they should be offered another restorative caution. We asked all participants, except the offender: 'If [the offender] was caught committing an offence again what do you think should happen to him/her?' Half thought that repeat offenders should be prosecuted, with only 4 per cent thinking that they deserved 'a second chance' in the way of another restorative caution, as Table 29 shows. The individual responsibility of the offender to control his or her own behaviour was a strong theme in the interviews conducted and it was rare during restorative sessions for there to be any discussion about the social context within which the offence had taken place and how this might make desistance problematic. The strong preference for prosecution in the event of a further offence has to be seen against that background.

Table 29 How should the criminal justice system treat repeat offenders?

Participant	Another restorative caution (%)	Prosecution (%)	Education/ help* (%)	Other** (%)	Don't know (%)	Total
Victim	10	50	10	7	23	30
O. supporter	2	46	5	26	22	63
V. supporter	–	75	–	–	25	12
Total	4	50	6	17	23	105 ***

*Help of a rehabilitative nature.

**This group includes those who said that the response should depend on the circumstances of the case – in particular the offence committed.

***This total excludes the offenders interviewed at stage 1 of the full evaluation and missing cases.

Table 29 shows that our question about handling repeat offenders elicited predominantly offender-focused responses. In other words, the majority of those who answered seemed only to consider punishment and deterrence (or rehabilitation) of the offender, rather than benefits to any future victims. This tallies with the accounts they gave of their original motivation for coming to the restorative caution, which were almost without exception offender-focused (that is, to support, deter or rehabilitate the offender). Even the majority of victims thought this way. No one appears to have considered what might be best for any victims of their future offending, except perhaps some of the victims, who largely account for the small minority of participants who thought the offender should attend another restorative meeting. However, despite their marginally more restorative stance, half of them were adamant that offenders should only get one chance. As one victim (9003) put it: 'If he commits an offence after this particular conference or meeting, then it should go to the next stage'; the 'next stage' being prosecution. Furthermore, our participants suggested prosecution at a time when there were no restorative disposals available to the courts (just prior to the introduction of the various restorative measures under the Crime and Disorder Act). On the other hand these views cannot be regarded as fully informed. It is possible that they might have

advocated prosecution supplemented by a restorative meeting if that option had been put to them. There is also the possibility that people might support a second or third restorative caution if they understood that cautions do form part of a criminal record and do impose significant legal and social disbenefits. If people see a caution as a let-off then it is not surprising that they want firmer action taken in future.

Should restorative sessions be facilitated by police officers?

We asked interviewees to comment on three aspects of police-led restorative justice. First, we wanted to know whether they felt the police were the right people to act as facilitators, second we were interested to find out whether they thought the wearing of a uniform was a good idea or not (something that many facilitators seem keen to know) and third we wanted to know how they felt about the common practice of convening the restorative session in the police station.

There is deep concern about whether it is appropriate for conferences to be led by the police, with an understandable fear that police facilitation places too much power in their hands. The concern that is sometimes expressed is that officers will investigate, arrest, judge and punish someone without legal safeguards. In other words, they will

Proceed with caution

expand their punitive function, and could, as a number of the interim study cases starkly illustrated, abuse it (Young 2001). As Table 30 shows, this concern is not shared by the majority of participants.

Only 6 per cent of participants expressed strong disapproval of the police facilitating restorative cautions. As with other questions about facilitation, victims and their supporters were again almost entirely without criticism, with slightly fewer offenders and their supporters feeling so keen on police facilitation, but still overwhelmingly in favour of it. Most interviewees agreed that police officers introduce a certain amount of authority and formality to the meeting and most felt that this was a good thing:

'Coming to somewhere like this where you've got a policeman involved ... police station ... All carries a bit of weight ...' (5020 OS)

'I think if it was a social worker, or whatever, more people would probably be getting into trouble because if they just think I'm getting a caution off a social worker, it's not really kind of official is it? Police officers are more like, you know, make someone feel more wary or whatever. It makes it more official.' (5012 O)

A few participants, including some offenders, felt that the police presence made them feel safer:

'I think the police should do it. If you just put a normal person [in the role of facilitator] he hasn't got any real power if anything gets out of control. If you have a

police officer, you have the protection that you know nothing's going to go wrong.' (9018 VS)

The offender supporter in this same meeting said something similar:

'Yeah, 'cos ... if a fight had broken out or a wrong thing been said, at least they are there to say "slow down" ... they're there to sort of like protect and serve.' (9018 OS)

However, a handful of interviewees felt that police officers were out of their depth facilitating restorative processes:

'The police officer has asked me how it affected me and that. He doesn't really know what he's talking about, really. He should just stick to crime really. It should be someone who, I don't know, a counsellor or someone ... that knows stuff about people's minds and that. If a police officer asks you how you feel ... you don't really want to tell him how you feel.' (5011 O)

And one offender felt nervous of the police using the process to gather evidence:

'Um, I think someone else should have done it basically because, I don't know, she could have, she said it was confidential, but you know what I mean, I learnt that police officers lie about a lot of things just to get their evidence.' (9011 O)

Much of the strong support for police facilitation seems to stem from a sense that a caution would otherwise be too much of a let-off for the offender. Cautioning was generally seen as a

Table 30 Did participants feel that the police should facilitate restorative cautions?

Participant	Strong approval (%)	Moderate approval (%)	Indifference (%)	Moderate disapproval (%)	Strong disapproval (%)	Don't know (%)	Total
Offender	22	49	12	5	9	3	67
Victim	32	45	10	–	–	13	31
O. supporter	41	35	7	4	4	7	68
V. supporter	58	33	–	–	8	–	12
Total	34	42	9	3	6	6	178

legitimate option for first-time offenders, but only so long as the matter was treated as serious and responded to authoritatively. Police facilitation was accordingly seen as adding the appropriate degree of formality and authority to the session.

Should police facilitators be in uniform?

Some of those who felt that the police should facilitate conferences in order to give the process some gravitas felt that it was important, for the same reason, for them to be dressed in uniform, whereas others felt the clothes were irrelevant. Interestingly, marginally more offenders than victims thought that police facilitators should be in uniform, although both victim and offender supporters were even more keen. One adult offender was unequivocal:

'Absolutely. You're here for a reason, and the uniform stamps that little bit of authority without being too much authority.' (5017 O)

One victim went even further and explained that it was good:

'Because it puts the frighteners on [the offenders].' (5018 V)

However, some participants did not like the social distance created by officers in uniform:

'[It is] bad because you see a policeman in uniform, you think, mmm, they like look, it seems like they're just looking down on you.' (5011 O).

In total, over half of participants expressed approval for the police being in uniform and over half of these expressed *strong* approval. Less than a quarter thought it was a bad idea, with 16 per cent feeling indifferent.

Should restorative sessions be held in the police station?

As long as a police officer is present to deliver the formal caution at the end, restorative sessions can be held anywhere that seems reasonable for the case and the participants. In both our interim study and our full evaluation we observed a few sessions in places other than the police station. One was held in the church where the offence (criminal damage) had taken place. Another was held in the school where the assault had taken place. Both of these venues were said by the participants to be suitable. However, on the whole, there was a clear majority support for conferences being held in police stations, with almost three-quarters of participants feeling that this is an appropriate place (and over a third of those expressing strong approval for the police station). Offender supporters were most likely to approve (and strongly approve) of the police station. Only eight participants (mostly offenders) expressed moderate disapproval and only two expressed strong disapproval (even though they were both keen on police facilitation in uniform). This was because they were concerned about being seen going into or leaving a police station:

'It was a bad place, just because it was a police station. You walk into a police station and you don't know who's on the bus [watching] and you get [tongues wagging] and I felt a bit weird going into a police station – I didn't like it.' (9018 OS)

As with other similar issues, victims and their supporters were particularly keen on the police station as a location. Most participants felt that it made the process more official and helped the offenders to take it more seriously:

'Yes, 'cos he knew it was a police station and, you know, I think he tried his hardest to sit there and be patient. So, you know, if we'd done it somewhere else he'd have probably got up and walked off.' (9014 OS)

For some interviewees the police station was simply a practical venue because of the centrality of its location. Police stations, especially main (as opposed to satellite) stations tend to be centrally located, on bus and train routes. Hence they are relatively easy to get to by public transport. In all three areas, satellite stations were used by facilitators when most of the participants lived outside of the main town. In these cases interviewees appreciated the effort that had been made to make it easier for them to attend. In the few examples where it had not been possible to book a venue near to all participants (usually where one party came from a different part of town to the others) some interviewees complained about the inconvenience of travelling, but these were only minor irritations. There was also some concern expressed by a few victims at being left, on arrival at the police station, in a waiting area in the presence of the offenders and their supporters.

Conclusion

No criminal justice initiative is ever implemented perfectly, achieves all of its goals in every case, or is totally successful in avoiding unintended and unwanted consequences. Once that is borne in mind, restorative cautioning can be seen as having achieved a remarkable degree of success. Participants generally see it as fair, and believe, with good reason, that it is successful in most of its short-term aims. After the event they remain broadly positive and a substantial minority report longer term benefits. The degree of support for restorative cautioning may grow still further if our finding that restorative cautioning appears to have a significantly greater impact on re-offending than old-style cautioning enters the public consciousness.

Our judgement, based on the cases we studied in depth, is that Thames Valley Police largely succeeded in transforming their cautioning practices from old-style cautioning to restorative cautioning. In particular, they eradicated much of

their earlier poor practice in a relatively short period of time between our interim study and full evaluation. Some of the positive findings from our full evaluation can be explained by reference to the research effect. In other words, by observing closely facilitators' practice we undoubtedly improved their behaviour in cautions. However, we also have evidence that facilitators improved because they learnt from their mistakes and made a genuine commitment to change.

There was, however, considerable room for further improvement, particularly in the case of some of the more experienced facilitators. Problems of under-preparation, coerced participation (on the part of offenders and their supporters) and lapses in facilitator neutrality continued to loom large. Much less frequent, but much more worrying, was the problem of cautions being administered despite a clear denial of guilt. Cautions, reprimands and warnings are all forms of sentence, in effect, and therefore due process safeguards surrounding these processes need to be adequate; currently they are not. The sprinkling of potential and actual low-level miscarriages of justice in our own sample highlights this fundamental fact, but it is one to which attention has been drawn repeatedly in the relevant literature (for example Evans 1993). If police services are serious about wanting to establish fair process in pre-trial justice, they need to take a long hard look at the ways in which their officers take decisions to caution, reprimand and warn offenders. The danger of unethical net-widening is all the greater once it becomes accepted that restorative justice can produce substantial benefits for all the various stakeholders to an offence. It is in nobody's long-term interests that people are cautioned for offences they did not commit. The resulting bitterness towards the police, not to mention the damaged life chances for wrongfully cautioned persons, far outweighs any good that a restorative process might do in such cases.

The results of this study have provided a new

incentive for Thames Valley Police to intensify the process of securing good implementation of its model. We have shown that high quality facilitation produces the most restorative results. People who are exposed to such facilitation are most likely to feel that they have experienced a fair process and to believe that the meeting has made the offender feel ashamed of their criminal behaviour and helped them to understand the effects of that behaviour on the victim and others harmed. It also appears that high quality facilitation may be linked to desistance from crime.

Another important finding of this research is that less well-facilitated restorative sessions are still a vast improvement on old-style cautions. In aggregate they produce generally positive outcomes in terms of satisfaction with the process. Nearly all participants came away from a restorative session feeling that it had been a good idea to meet with the other participants in the presence of a facilitator trained in restorative justice thinking. Thus, even on the most pessimistic assumptions about the degree to which facilitators 'followed the script' in restorative sessions where we did not observe, there remains no doubt in our mind that there has been a widespread, genuine improvement in cautioning practices over the period of the initiative.

The overwhelmingly high perceptions of fairness of the process held by all parties regardless of the quality of facilitation suggest that what really matters is the provision of a safe environment in which people can talk about the harms that have been done. There is a consequent danger that police services might think that they can cut corners, and therefore costs, in implementing restorative justice. For example, they might not take seriously the importance of adequate preparation, or of adopting a scripted approach, preferring instead to allow facilitators to, in police parlance, 'fly by the seat of their pants'. This would be a serious mistake for a number of reasons.

First, some participants in less well facilitated sessions were highly critical of the process.

Although their views became somewhat submerged in our aggregate data, it would only take one opinion-former (such as a journalist or local councillor) to experience a poor process, and to make their views known, for restorative cautioning to be brought into disrepute. This might further damage the already strained relationships which exist between the police and the public in many areas. Second, one such poorly run case in the full evaluation produced the unintended outcome of a worsened attitude towards the police and increased offending. The implication is clear: better net results will be achieved by eliminating bad practice. Third, as noted in the body of this report, part of the explanation for such high aggregate satisfaction ratings in badly facilitated cases can be found in the low expectations of participants entering the process. Once the public learn more about restorative justice, failures by the facilitator to adhere to the model will be noticed and will inevitably lead to less positive perceptions of the initiative. Fourth, process integrity is crucial if restorative sessions are to remain procedurally just to all parties involved. This matters regardless of whether participants are aware of what should happen to them or not. Fifth, a sustained ethical approach to restorative cautioning (as with any aspect of policing) is likely to produce a strong sense of procedural fairness which, the criminological literature suggests, can lead to a greater propensity to respect the law and those who administer it. In short, ethical practice and operational effectiveness are not incompatible but complementary.

The place of restorative justice within the criminal justice system has yet to be determined. This particular initiative was not seen by our participants as revolutionising criminal justice, but rather as a more legitimate and effective way of delivering cautioning. Thus, the majority of interviewees felt that it should not replace prosecution as the next step after one warning. It is possible that acceptance of restorative cautioning as

a viable alternative to prosecution in many cases will grow if people better understand the legal implications of cautioning, rather than seeing it as 'a let-off'. They also need to be better informed about the social factors which shape much offending, as well as the wide variety of circumstances and contexts in which offences take place, as otherwise they will be too ready to see a further offence as a sign that the offender did not listen to what was said in the original restorative session. Finally, they need to be better informed about the potential benefits of restorative justice and that it need not be a stand-alone intervention. Rather, restorative justice can form a gateway to other forms of intervention which offenders facing serious social problems might need and welcome, such as the provision of mentoring, help with finding accommodation or skills training. It may be that such forms of additional intervention are more likely to be perceived as legitimate by offenders and others if agreed to through a restorative process. That, in turn, is likely to maximise the chance that the additional intervention will prove successful. However, if restorative justice is to be used in this way there will need to be in place effective safeguards against the possibility of coercive 'agreements' that impose disproportionate burdens on offenders.

As things stand, public acceptance of restorative cautioning as a viable alternative to prosecution for a second or third detected offence seems more likely to be won if the police retain their role as facilitators than if they pass on this role to specialist mediators. The latter, according to our interview data, would be likely to be seen as lacking sufficient authority by the majority of potential participants. The evidence of this report is that police facilitation is preferred by most participants in restorative sessions. However, the report also shows that police officers quite often bring their professional biases and assumptions into the process. In our interim study we found the same to be true in those cases facilitated by a social worker,

who tended to be too focused on therapeutic and rehabilitative aims. These lapses away from neutrality can threaten the integrity of restorative programmes. Moreover, a minority of participants had strong objections to police facilitation. One possibility would be for the police to co-facilitate with trained mediators, although this will necessarily lead to increased costs and logistical difficulties, not to mention a need for yet more research to assess the pros and cons of this approach.

If the police continue to facilitate alone, greater use of the scripted approach must be secured. Whilst following a script without a decent grasp of the restorative model can result in problems when deviations from the script are necessary, unnecessary deviations from the script are the greater evil. The script is not just a collection of ritualistic phrases to be read aloud mechanically, but rather expresses restorative justice thinking on how to structure an encounter between the stakeholders to an offence so that the chances of a restorative process and outcome are maximised. Its use helps prevent participants becoming marginalised in the process, feeling uncertain about their role or unsafe. When used wisely it tends to reinforce a facilitator's understanding of restorative justice and his or her confidence in the model's effectiveness. However, our findings also showed that adopting a scripted approach within the restorative session itself cannot compensate for a lack of adequate preparation. Fair process values require that participants understand the essentials of the process they are being asked to enter, have a chance to collect their thoughts in advance, are pre-warned of the emotions they may experience, and are placed in a position to make an informed choice about which supporters to bring.

In 1998 Thames Valley Police made a trailblazing commitment to implement restorative cautioning across its 11 police areas. The bulk of its cautioning is now delivered following a restorative justice script, and significant improvements in the

standards of facilitation have been achieved. Thames Valley Police has shown that a major public organisation can be innovative, can take risks and, perhaps more surprisingly, can accept constructive criticism and alter practice in line with recommendations made by academic critics. It continues to innovate in this field, as, for example, by introducing restorative justice values and processes into the way it handles non-criminalised incidents and within its own complaints and discipline procedures. The decision by Thames Valley Police to submit itself to rigorous and critical independent scrutiny, and its determination to learn from it, has provided valuable lessons for all other organisations embarking on this path.

Since Thames Valley Police started its restorative justice programme, the Crime and Disorder Act 1998, the Youth Justice and Criminal Evidence Act 1999, and more recently the reports of the Halliday review of sentencing (2001) and Lord Justice Auld's review of the criminal courts (2001), have steered criminal justice agencies in the United Kingdom in the direction of restorative justice. Over the past year or two a few other police services and all youth offending teams have

introduced restorative justice measures into their responses to youth crime. None has developed as far as Thames Valley Police in terms of organisational change and understanding or in terms of the number of cases dealt with. No doubt there are still police services in England and Wales operating under the assumption that a good caution is one in which the offender is humiliated to the point of tears. The findings reported above should inform the further development of restorative justice across the country and, hopefully, help bring to an end such counter-productive practices. The criminal justice system has been, and still is, in a period of great change, and restorative measures are being introduced at various levels to various degrees. The main messages in this report, concerning the importance of neutral facilitation, procedural fairness and adequate preparation before any intervention, apply to all of these different programmes and initiatives currently under the restorative justice banner. The findings presented in this report confirm that they should proceed, with caution, along the restorative justice path.

Notes

Chapter 1

- 1 The Crime and Disorder Act 1998, sections 65 and 66. The new system of reprimands and warnings for young offenders had yet to be fully implemented by the time we completed our observations of cautioning practices and we will therefore use the term 'cautions' throughout this report.
- 2 'Scripted' refers to all cautions (restorative cautions and restorative conferences) where the restorative script was used (i.e. all restorative sessions).
- 3 After all quotations in this report we provide a case reference number and a code for the status of the interviewee: F refers to the facilitator; O to the offender; V, victim; VS, victim supporter; OS, offender supporter. Occasionally numbers follow codes to distinguish between different offenders, or different victims or supporters when there was more than one victim, supporter or offender in the case.
- 4 Fifty-seven of the 73 offenders observed (78 per cent) were juveniles and 16 were adults. We interviewed 54 of the juveniles and 14 of the adults.

Chapter 2

- 1 This training, at the time of our research, took a week and comprised both theoretical and practical input.

Chapter 3

- 1 One victim supporter (8 per cent) is excluded from the data presented in this table. She was a member of the organisation Victim Support and so it was not considered appropriate to ask her whether or not she was asked if she wanted to bring someone with her to support her through the process.

Chapter 4

- 1 'MO – mixed' in Tables 12 to 15 means that in these cases there was more than one offender (MO = multiple offender) and the participant had mixed views on them, feeling, in the above example, that one or more offenders did understand the effects of their behaviour and one or more did not.
- 2 In some cases our respondents said that the offender had felt guilty but did not know if they had felt ashamed. We coded guilt along with shame for the purpose of producing this table.
- 3 It is our understanding that the protective behaviours sequence is now given little emphasis in the Thames Valley Police training course and that it is falling out of use. We welcome this.
- 4 This total excludes all interviewees who could not recall the offender making an apology. This does not necessarily mean that the offender did not apologise in these cases.

Chapter 5

- 1 It could be argued that the differences might partly be explained by the 'self-selection effect'. In other words, those who choose not to participate were in some way more hostile towards the police or the restorative process. However, it must be borne in mind that many of these 'non-participating victims' would have been happy to participate in a restorative session if only they had been given an informed choice, or if the meeting had been held at a convenient time for them. Hence, there is no reason to believe that the majority are significantly different from those who did participate.

- 2 That is, those sanctions recorded after the restorative caution in respect of offences committed before it took place. See Lloyd *et al.* (1995).

Chapter 6

- 1 We were concerned that if a few cases with a large number of participants had gone particularly well or particularly badly this could distort the overall findings for participants in the category within which they fell. Hence, we decided to compute an aggregate case-based score for each of these three outcome variables. This analysis showed no such distortion; indeed, the percentages were very similar.

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Appendix 1

Sample interview schedule

The following is the interview schedule used for offenders in the full evaluation. To facilitate the process of comparing the experiences of other participants with those of offenders, wherever possible we used the same questions, identically worded, in the interview schedules for offender supporters, victim supporters and victims.

Cautioned person's interview

1. Did you feel that your treatment by the police overall since you were caught has been fair or not? [Probe for treatment on arrest and in the police station.]
2. After you were arrested, when you arrived at the police station, did anyone talk to you about what your rights were?
3. Did you ever talk to a lawyer about coming to this meeting?
4. Who first approached you about coming to this meeting?
5. What did they say to you? [Did you feel that you were given a choice to participate or not?]
6. Why did you come to the meeting?
7. Were you asked who you wanted to come to the meeting with you?
8. Did you ask anyone to come with you?
9. Did it help having them there or not?
10. Were you told beforehand who else would be at the meeting?
11. Was there anyone in the meeting that you thought SHOULD NOT have been there?
12. Was there anyone NOT in the meeting that you thought SHOULD have been there?
13. Having now participated in the meeting do you think that there is anything you should have been told about beforehand but weren't?
14. When you arrived, at [meeting venue], immediately before the meeting, how were you feeling?
15. How did it feel to talk about the offence in front of the people who came to the meeting?
16. Was it easy or hard to say what you wanted to say in the meeting?
17. Had you talked about how you felt about the offence before this meeting to anyone else?
18. Having now been through the meeting, what do you think the main purpose of it was?
19. How did you feel when you were listening to other people say how the offence had affected them?
20. During the meeting did anyone do or say anything that made you feel nervous, annoyed, or angry?
21. Do you think that this meeting helped you to understand the effect of your behaviour on other people or not?
22. Did you say sorry to anyone during the meeting?
23. How did you feel about saying sorry? [Ask this whether or not an apology was made.]
24. Was there anyone [else] that you would have liked to have apologised to but didn't?
25. Did you want to do anything else to put right what you had done?
26. Do you think that there was enough discussion about what needed to be done to put matters right?

27. Did you feel you were fully involved in deciding what the outcome of the meeting should be or not?
28. Overall, did you feel you were treated fairly or unfairly during the meeting?
29. Do you think the outcome of the meeting is fair to you or not?
30. Do you think the outcome of the meeting is fair to everyone else or not?
31. Before the meeting did you consider what outcome you might like?
32. Did your views on what you wanted to come out of the meeting change at any point?
33. Did the meeting make you feel ashamed of what you'd done or not?
34. Did the meeting make you feel like a bad person or not?
35. Do you feel better or worse, or no different, having met in this way?
36. Do you think you have been punished for what you did or not?
37. Do you think that the meeting today is part of your punishment or not?
38. What did you think of the way [the facilitator] ran the meeting?
39. Was there anything that [the facilitator] said or did that you didn't like?
40. Do you think it was a good idea for [a police officer / a social worker] to run the meeting or should someone else have done it? [Probe for views on the police running these meetings.]
41. If the police run these meetings is it a good or a bad idea that they wear a uniform?
42. Do you think that this was a good or a bad place to hold the meeting?
43. Overall, do you think it was a good or a bad idea to have had this meeting?
44. Do you feel you can now put this behind you or not?
45. Can you suggest any ways in which this process, involving these meetings, could be improved?
46. Is there anything else you would like to say about the meeting?

Appendix 2

The representative nature of our samples of cases

In Table A2.1 we compare our samples with the total population of cases dealt with by way of a restorative caution or conference in our three police areas during the same period of time in order to illustrate that the samples were representative in nature. The data are drawn from the Restorative Justice Consultancy database.

In the interim study we deliberately chose to study a disproportionately large number of restorative conferences (16 out of the 23 cases had victims present) on the basis that these were likely to represent the most marked departure from 'old-style' cautioning procedures and thus highlight any problematic issues or positive achievements in stark fashion. In terms of the offences involved, the studied cases were broadly representative of the cases disposed of by way of caution across the force as a whole with the notable exception that we observed no case in which the primary offence involved drugs.

In the full evaluation the larger number of cases collected meant that a greater degree of representativeness was achieved, particularly as regards offences covered. The two main offence categories dealt with in the total population were assaults (20 per cent of cautioned offences) and

theft from shops (20 per cent). These were also our main categories making up 39 per cent of our sample (23 per cent assaults and 16 per cent theft from shops). We also captured about the right proportions of drug offences and other thefts whilst somewhat under-sampling criminal damage cases and over-sampling burglaries (13 per cent of our sample compared with 5 per cent of all cautions processed by the police). The disproportionate number of burglaries in our sample stems from the fact that we over-sampled 'restorative conferences' (although less so than in the interim study).

The mean average length of the restorative session in both the interim study (54 minutes) and full evaluation (49 minutes) was almost identical to the average length of session in the corresponding total populations of cases. Given that we over-sampled conferences in both of these phases of the research, this suggests that the 'average' restorative conference is much like the 'average' restorative caution in many respects and that is indeed our sense from the lengthy observations we conducted. The greater proportion of restorative cautions in our 'after' full evaluation sample does not therefore invalidate comparisons with the 'before' interim study sample.

Table A2.1 Total population of cases in three police areas compared with research sample

	Interim study: January–April 1999		Full evaluation: January–April 2000	
	Total population	Research sample	Total population	Research sample*
<i>CAUTION CHARACTERISTICS</i>				
No. of cautions	282	7	357	35
No. of conferences	72	16	55	19 **
% of RJ sessions that were conferences	20	70	13	35
Range of participants at RJ session	2–17	2–17	2–13	2–13
Average no. of participants at RJ session	5	6	3	4
<i>LENGTH OF RJ SESSION</i>				
Range of RJ session length in minutes	4–150	20–100	4–150	10–150
Mean RJ session length in minutes	49	54	48	49
<i>OFFENDER CHARACTERISTICS</i>				
Total no. of offenders	400	27	483	72
% of offenders who were male	76	82	74	78
Age range of offenders	10–74	11–31	8–58	8–45
Mean age of offenders	18	16	19	17
Modal age of offenders	16	16	15	15/16
% of offenders who were white	91	96	86	82
% of offenders in full-time work	22	15	26	25
% of offenders with previous convictions	6	0	5	6
% of offenders with previous caution	19	26	20	26
<i>VICTIM INVOLVEMENT</i>				
Range of victims attending RJ session	0–4	0–3	0–6	0–6
Mean number of victims attending	0	1	1	1
<i>OFFENDER INVOLVEMENT</i>				
Range of offenders involved in incident	1–6	1–5	1–6	1–5
Mean no. of offenders in incident	2	2	2	2
Modal no. of offenders in incident	1	2	1	1
Range of offenders attending RJ session	1–6	1–3	1–6	1–4
Mean no. of offenders attending RJ session	1	1	1	1

*Excludes one caution where the cautioning session was aborted due to a 'denial' of guilt.

**One of our conferences is not recorded on the Consultancy's database as it did not involve a formal caution. We thus studied 20 conferences.

Appendix 3

Assessing the quality of facilitation

In seeking to discover whether quality of facilitation made any difference to outcome measures such as a sense of fairness or a reduction in offending it was necessary to divide our sample up according to some explicit criteria. Two full evaluation cases were excluded from the analysis: one involved a process aborted early on when the offender denied the offence, and the other did not involve a formal caution. For the remaining 54 cases we identified six aspects of the process, set out below, and then awarded 1, 2 or 3 points for each aspect of each case depending on how closely the facilitator kept to the restorative model. This was done by two members of the research team independently from one another (i.e. double 'blind' coding) with any discrepancies in coding resolved by discussion involving the third member. Cases scoring between 6 and 10 became 'least restorative', between 11 and 14 'mid-restorative' and between 15 and 18 'most restorative'. The discussions that took place during this process were informed by qualitative comments the original coders had recorded when allocating scores to each item. For example, a facilitator might have made the odd slip up when handling a case yet nonetheless have established an excellent re-integrative rapport with the offender to compensate. In three full evaluation cases, and one interim study case, qualitative comments of this nature led to us taking a more positive (or more negative) view of a particular facilitator than the strict numerical scoring system would have produced.

Items for assessing quality of facilitation

Trichotomous scale

3 = most restorative (good to very good)

2 = mid-restorative (fairly poor to fairly good)

1 = least restorative (poor to very poor)

1 Preparation

Spoke personally to all key participants (including non-participating victim) before they arrived at the caution venue = 3

Spoke to some of the key participants before they arrived at the caution venue = 2

Spoke to hardly any or none of the key participants before they arrived at the caution venue = 1

2 Introduction

Clear, concise, and according to script (or with sensitive modifications) = 3

Mediocre, some elements missed out or rambling or non-restorative language = 2

Poor – many elements missed out, or deterrent language, or non-restorative focus = 1

3 Sensitive and even-handed facilitation of initial stories

Sensitive adaptations to script/even-handed between key players/non-defensive about police = 3

Reasonably even-handed but sidelines an important player to some extent or too rigid in use of script = 2

Lacks even-handedness/completely sidelines a key player/defensive about police/judgemental = 1

4 Asking everyone important (other than offender) what they want to come out of it

Yes, and in an open way = 3

Someone important left out or question put in somewhat leading or perfunctory manner = 2

Important players left out, or question put in completely leading/perfunctory manner = 1

5 Neutral facilitation of entire reparation stage (including apology prompt)

Even handed and sensitive = 3

Fairly neutral but key player sidelined somewhat or facilitator's views intrude somewhat = 2

Lacks neutrality or key people sidelined or facilitator's views dominant = 1

6 Ending on an appropriate note (i.e. after 'is there anything else anyone wants to say?')

F wraps up session by summarising achievements/ wishing people well/ appropriately positive = 3

F wraps up in a perfunctory manner or slides into some deterrent language = 2

F wraps up in a predominantly negative or deterrent manner = 1

7 Qualitative comment about the facilitation.

Appendix 4

The self-report instrument

Table A4.1 documents how we classified the offences covered by our self-report instrument as 'serious' and 'non-serious' for the purposes of this report. We drew upon the self-report instrument and definitions used in Graham and Bowling (1995) but did not replicate exactly the list of offences covered by the Home Office instrument. This is because we felt that the Home Office list, designed to be administered to a general population sample of 12–30 year olds, was not the most appropriate one to use for a population of cautioned persons (where young people of school age were likely to make up the bulk of the sample). The second column of the table shows the offences used in both instruments, broken down by whether they were classified as 'serious' or 'non-serious'.

The third column shows the offences the Home Office included which we excluded. Pick-pocketing was excluded on the basis that it is an offence committed relatively infrequently by young people (one in 500 over a 12-month period according to Flood-Page *et al.*, 2000, p. 60). Hurting someone with a weapon was excluded on the basis that it was likely to result in some double-counting, as these incidents might also be covered by the offence of 'hurting someone causing them to need medical treatment'. It was replaced by the offence of 'hurting someone but they did not need medical treatment' which was designed to capture a broad range of non-serious assaults. Taking a bicycle without consent was excluded on the basis that it was likely to capture too many trivial or non-criminal incidents (such as borrowing a sibling's bike) and that where the taking was clearly dishonest it would be covered by the catch-all question 'stolen anything from anywhere else?'.

The other non-serious offences used by Graham and Bowling that we excluded all concerned forms of fraud unlikely to be committed by young people. We excluded them with reluctance as we were aware that their omission would lead to us under-stating

the amount of offending committed by adults in the year following their caution. But their exclusion was necessary if we were to achieve our goal of keeping the self-report instrument confined to a single sheet of A4 (so as to encourage completion and return). As some compensation we included the offence of drink-driving (unlike Graham and Bowling) on the basis that this might be committed by young people and adults alike. With some hesitation we defined this as a 'serious offence' in recognition of changing social perceptions of this form of criminality.

We included some non-serious offences excluded by Graham and Bowling from their main self-report instrument. As much youthful offending is social in character we thought it important to include the offence of being a passenger in a car taken without consent. As matters turned out, nearly a quarter of our sub-sample (those who completed self-report instruments) reported that they had committed this offence at some point in their lives. We also thought it important to ask specifically about theft from family and friends; one in seven of our sample self-reported this offence. Finally, we decided that it would be unwise in the context of this research to administer a detailed questionnaire on drug use of the kind used by Graham and Bowling. We felt this would result in an unacceptably high rate of non-completion and return. Instead we included two questions on *buying* and *selling* drugs. The wording was designed to include those with a degree of commitment to drug use or supply whilst excluding those who had merely participated in the passing round of a 'joint' as part of everyday social interaction.

Definitions of seriousness and persistence used in this report are based on those used by Flood-Page *et al.* (2000, p. 6). The most important differences between the two sets of definitions are, first, that the Home Office study included pick-pocketing and hurting someone with a knife, stick or weapon in their list of 'serious' offences whereas we did not ask

our sample to self-report these offences, and, second, we included drink-driving in our list of serious offences whereas the Home Office study did not include this offence in its self-report instrument. It should be noted that, for our purposes, stealing a car or motorbike includes the offence known as TWOC (taking a vehicle without the owner's consent), but excludes the offence of being a passenger in such a vehicle.

Other offences uncovered by the research team (either by the Home Office providing us with Police National Computer data or by respondents telling us about them in interview) were defined as serious

or non-serious by considering which of these already constructed categories they 'fitted' best.

Offences uncovered in these ways and classified by us as 'serious' were: entering a building as a trespasser and proceeding thereafter to steal or commit criminal damage (a form of burglary); snatch theft; and pick-pocketing.

Those classified as non-serious were as follows: handling stolen goods; absconding whilst on bail; violent disorder; pedestrian on a motorway; minor public order offence; summary offence under the Firearms Act 1968; assault on constable; affray; and breach of action plan conditions.

Table A4.1 Classification of offences as serious or non-serious in this report

	Included in both the self-report instrument used in Home Office Research Study 209 as well as in the Restorative Cautioning research.	Home Office offences not included in Restorative Cautioning self-report instrument	Restorative Cautioning research offences not included in Home Office
Serious	<ol style="list-style-type: none"> 1 TWOC car or motorbike 2 Entering building with intent to steal 3 Snatch-theft from person 4 Threatened someone with a weapon or a beating to get something valuable from them 5 Hurt someone causing them to need medical treatment 	<ol style="list-style-type: none"> 1 Pick-pocketing 2 Hurt someone with a knife, stick or weapon 	<ol style="list-style-type: none"> 1 Drink-driving (drunk or over the limit)
Non-serious	<ol style="list-style-type: none"> 1 Damaged or destroyed property or written graffiti (on purpose or recklessly – HO) 2 Set fire to anything on purpose (or recklessly – HO) 3 Stolen money from a meter, phonebox, vending machine 4 Stolen from a shop 5 Stolen anything from school or workplace (worth more than £5 – HO) 6 Stolen anything from a car 7 Stolen anything from anywhere else (worth more than £5 – HO) 8 Used or sold a stolen cheque book, credit care, cash point card 9 Bought or sold anything else you thought was stolen 10 Taken part in a fight in a public place (in a group – HO) 	<ol style="list-style-type: none"> 1 Taken away a bicycle not intending to return it 2 Made a false claim on an insurance policy 3 Claimed social security benefits fraudulently 4 Made an incorrect tax return 5 Over-claimed expenses knowingly 	<ol style="list-style-type: none"> 1 Been a passenger in a car that was taken without the owner's consent 2 Stolen anything from your family or a friend's house 3 Bought drugs for own use 4 Sold drugs to someone else 5 Hurt someone, but they did not need medical treatment

Appendix 5

Results from the self-report instrument

Table A5.1 shows the proportion of the 56 offenders that completed the first self-report instrument who had committed the various criminal offences they were asked about, as well as

showing the median age at first offence and the average number of times they had committed such offences in the 12 months prior to the caution.

Table A5.1 Results from the self-report instrument at stage 1 (n=56)

	Ever done (%)	Median age at first offence	Average number in last year
Taken a car, motorbike etc. without the owner's permission	16	14	1
Been a passenger in a car that was taken without the owner's permission	23	16	1
Driven a car or bike when you were drunk or over the limit	16	16	3
Damaged or destroyed anything, like a phone box, windows etc. or written graffiti ('tagging')	45	13	2
Stolen money from a gas or electricity meter, public phone, vending machine or any other type of machine	7	12	1
Stolen anything from any kind of shop	61	12	3
Stolen anything from your family or a friend's house	16	12	1
Gone into any other house or building intending to steal anything	14	14	<1
Stolen anything from a car	11	12	<1
Snatched anything from a person, like a purse or bag	2	15	0
Used or sold a stolen credit card, chequebook or cash	5	16	0
Bought, sold or kept anything else you thought was stolen	23	14	2
Stolen anything from anywhere else (e.g. school, youth club, workplace, building site)	27	14	<1
Threatened someone with a weapon, or a beating (e.g. to get money or make them do something)	9	15	3
Carried a weapon (e.g. knife, gun)	30	14	3
Got into a fight in public somewhere (e.g. on the street, football ground, in a pub etc.)	52	13	2
Bought drugs for your own use	38	13	4
Sold drugs to someone else	16	15	9
Set fire to anything on purpose (e.g. building, furniture)	16	12	<1
Beaten up or hurt someone <i>in your family</i> , causing them to need medical treatment	2	8	0
Beaten up or hurt someone <i>not in your family</i> , causing them to need medical treatment	36	15	1
Hurt someone, but they did not need medical treatment	71	14	2

Table A5.2 provides data on the number of different types of offence committed over the life course by this same sub-sample of offenders (which means, of course, that adult offenders had a longer period within which to commit offences than did young offenders).

Table A5.2 Number of different types of offence committed over a lifetime

No. of different offences	Frequency	Per cent	Cumulative per cent
1	10	17.9	17.9
2	6	10.7	28.6
3	9	16.1	44.6
4	5	8.9	53.6
5	6	10.7	64.3
6	6	10.7	75.0
7	3	5.4	80.4
8	1	1.8	82.1
9	2	3.6	85.7
10	1	1.8	87.5
11	2	3.6	91.1
12	1	1.8	92.9
13	2	3.6	96.4
16	2	3.6	100.0
Total	56	100.0	

Appendix 6

The reliability of the self-report data

Table 20 on page 49 shows that for 29 of the 73 offenders in the full evaluation we were unable to obtain self-report data for the 12 months following the restorative caution. This raises concerns about the reliability of the data. It could be hypothesised that the more serious and persistent was the offender post-RJ, the less likely it was that we would be able to contact them and successfully administer the one-year follow-up self-report instrument.

To explore whether this was so we examined whether the offenders in our sample received a further sanction (either caution or conviction) for an offence committed in the year following the restorative justice intervention. If our sample were skewed in the way hypothesised, one would expect the missing cases to attract a disproportionately high level of re-sanctions when compared with the cases for which we had valid post-RJ data. The Home Office ran a check for us in October 2001 on the Police National Computer (PNC) to see whether any of the offenders we observed in restorative cautions and conferences had been re-sanctioned. This date meant that we had allowed a minimum of five months for offences committed in the year following the restorative caution to be detected and the details of any re-sanction to be entered on PNC. Sanctions were included only if they were in respect of offences committed after the restorative justice session took place (to avoid the problem of so-called pseudo-reconvictions) (see Lloyd *et al.*, 1995).

The bottom row of Table A6.1 allows one to calculate that 21 per cent of those with no self-report data at stage 3 were re-sanctioned for an offence committed in the post-RJ year as compared with 14 per cent of those who provided us with such data. This provides some limited support for the notion that serious and/or persistent offenders were less likely to provide us with self-report data. However, this notion can be dispelled on closer

analysis. As can be seen from Table A6.1, 12 of our 73 offenders had been re-sanctioned for an offence committed in the year following the restorative justice intervention. Of these, six were recorded by PNC as committing serious and/or persistent offences, of whom five had provided us with self-report data. By contrast, of the six who were recorded by PNC as committing non-persistent and non-serious offences, only one had provided us with self-report data. We are working with small numbers here but it certainly appears that our sample of post-RJ self-reporting offenders is not skewed through a disproportionate exclusion of the more serious and/or persistent offenders.¹

Another issue the PNC data allowed us to explore was the apparent honesty or accuracy of those who did self-report their offences to us. We examined whether the offences recorded on PNC as taking place in the 24-month period covered by our self-report instruments (other than the offence for which the restorative caution was received) were reported to us by those offenders who provided us with either interview or self-report data. No check was possible for 59 offenders, either because no offences were recorded on PNC as having taken place during the period of interest (n=54) or because the cautioned person did not provide us with any data about their offending behaviour which would enable comparison to take place (n=5). In the remaining 14 cases, 13 offenders self-reported their officially detected offending honestly and accurately and only one did not disclose fully.

Note

- 1 This argument assumes (reasonably, we think) that the most serious and persistent offenders are most likely to appear in the official statistics as serious and/or persistent offenders.

Table A6.1 Home Office re-sanctioning data post-RJ year and self-report data obtained

Re-sanctioning data (from PNC)	Self-report data at post-RJ stage	No self-report data at post-RJ stage (missing cases)	Total
Persistently serious offending	0	0	0
Serious and persistent offending	1	1	2
Serious but non-persistent offending	2	0	2
Persistent but non-serious offending	2	0	2
Non-persistent and non-serious offending	1	5	6
No re-sanctions	38	23	61
Total	44	29	73

