

RESTORATIVE
JUSTICE &
SEXUAL HARM:

THE VOICES OF THOSE
WHO HAVE HARMED

2023

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Thank you to all at HMP Edinburgh and Sonar CMS for making this study possible and a special thanks to the participants who shared their experiences with us.



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FOREWORD

This study is exploring the views concerning RJ of people who have sexually harmed, who have been found guilty of such crime and are now serving a prison sentence because of it. The authors of the study examine among other things what this group think RJ is, whether it is appropriate for this type of crime, whether they would want to take part and why, and what they would do if the person they harmed approach them with such a request. This is a study mirroring the one undertaken two years ago by the charity Thriving Survivors, examining the views of persons harmed by sexual and domestic violence as regards RJ and access to it, for this particular type of harm.

The study although small in scope is timely and quite unique, there are indeed few qualitative studies examining the topic from this side. The authors take this on with care, courage and lucidity and manage a very honest and open dialogue with a population very rarely consulted. It is done without prejudice and allows for an insight into their possible motivations for participation, but also at the limitations and risks for the person harmed, themselves and their families.

The authors know the literature in this field really well and put it to use here to offer a comprehensive analysis of the main issues as to why harmers may want to take part in the study but more importantly may consider taking part in RJ. The data and findings are rich, sometimes surprising or uncomfortable, but are essential and will inform the development of RJ practices in cases of sexual harm for many years to come.

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2023

EXECUTIVE SUMMARY

In June 2021 the third sector organisation, Thriving Survivors, and various partners published the 'National consultation: Survivors Voices' (Thriving Survivors, 2021) which captured the voice of survivors of sexual and domestic violence and abuse. The publication demonstrated the importance of choice when making a professional judgement based on survivor recovery. The consultation asked the pertinent question 'should Restorative Justice (RJ) be facilitated and promoted in cases of sexual harm'. The vast majority of participants felt this should be an available process for those who wish to utilise this model to support their recovery, and questioned professionals making decisions on their behalf.

Limited provision of RJ has been available to survivors of sexual harm across Scotland until May 2022 when Thriving Survivors launched the 'National hub for cases of sexual harm, an innovative service that has utilised a range of practice and academic professionals to provide a restorative process in cases of sexual harm, for those that wish to access it. Midlothian Community Safety & Justice Partnership has been actively supportive of this work and is a key statutory partner in both service development and delivery, piloting this model within the local authority.

A key component of RJ is that it is entirely voluntary and requires the voluntarism of both the survivor and the individual that has caused the harm. The Midlothian Community Safety & Justice Partnership sits within Justice Services and has a dedicated role in promoting recidivism and desistance. The partnership was keen to have a better understanding of the motivational factors of an individual that has caused the harm, why they might participate in RJ and the impact this may have on recidivism.

Motivational factors have been central to ongoing discussions and developments, particularly when considering the risk factors surrounding coercive control and the opportunity restorative practice may give to further harm. The authors support the view that if the restorative process is followed properly, with all the safeguards in place (safety /risk assessments, using a trauma-informed approach), then these risks can be manageable. (Shapland et al. 2022)

The choice of whether to start and proceed should be made by the person harmed unless there are safety risks, in which case the process would be re-directed or stopped by the facilitator. It should be fully voluntary for all concerned parties and the facilitators are mitigating risks continuously. Some survivors of sexual harm/violence have stated that the "risks" to themselves if they do not proceed are greater than those of taking part in the restorative process (Shapland et al, 2022).

RJ has been shown to have an array of benefits that include reduced feelings of fear, re-victimisation, alleviate emotional harm, and post-traumatic stress. (Angel, 2014; Zinsstag & Keenan, 2017; Miller & Hefner 2015). There is also the potential risk that the person harmed will try and meet with the person responsible without any support, which could lead to further harm.

This publication intends to provide the view of those responsible for harm. In order for a process to be fully restorative all parties must engage voluntarily with it. It is imperative that the views of the people responsible for harm are taken into consideration, so they can make a fully informed choice to participate. This will help inform any future practice working with this group.

WHAT IS RESTORATIVE JUSTICE?

THE SCOTTISH GUIDANCE FOR THE DELIVERY OF RJ (2017, P6) DESCRIBES RJ IN THE FOLLOWING WAY.

"RJ is a process of independent, facilitated contact, which supports constructive dialogue between a victim and a person who has harmed (whether this is an adult, child, young person or a representative of a corporate or other body) arising from an offence or an alleged offence".

RJ can take place in a face-to-face meeting, for example through conferencing, circles, or by other means such as "shuttle dialogue", letter writing, technology can also be used to enable parties to meet virtually. RJ is a process that must be entered into voluntarily by both parties; they also have the right to withdraw from the process at any stage. The person responsible for the harm must be "accountable" for the harm caused, but it is important to keep in mind that the restorative process is not about establishing "guilt". (Keenan & Zinsstag, 2022)

RJ can increase the person responsible for the harm's sense of responsibility, as well as helping to repair the harm caused. It provides the opportunity for persons harmed to ask questions of the person responsible, as well as being able to tell them about the impact of the offence. This can feel empowering, as well as providing the persons harmed, the community and the person responsible with a sense of "justice". Benefits specifically associated with RJ in cases of sexual violence are healing for all parties and restoring family relationships (in cases of intra-familial abuse). (Keenan, 2014: 313).

Guidance for the Delivery of RJ in Scotland (Scottish Government) was published in October 2017; it was intended to provide statutory guidance for RJ practitioners and facilitators, so that RJ can be delivered in a "coherent, consistent and victim-focused manner across Scotland, and are in line with the EU Victims' Rights Directive" (p2)

A commitment was made in the 2018 Programme for Government that Scottish Ministers requested that RJ services are available across Scotland by 2023, with an RJ Action Plan in place by spring 2019, setting out how this aim will be delivered. "The Action Plan has to be practical, deliverable and designed on a co-production basis in order to be effective - with the voices of practitioners, policymakers and communities at its heart"

The RJ Action plan was published in June 2019. The Action Plan set out the Scottish Government's vision for RJ "Our Vision is that RJ is available across Scotland to all those who wish to access it, and at a time that is appropriate to the people and case involved. Approaches taken must be of a consistent, evidence-led, trauma-informed, and of a high standard. This seeks to ensure that the needs of the person harmed and their voices are central and support a reduction in harmful behaviour across our communities" (p4).

METHODOLOGY

The intention of this consultation was to capture a blend of qualitative and quantitative data to explore and describe the views of individuals convicted of a sexual offence(s) on the use of RJ in cases of sexual harm. The set questions supported discussion on the impact RJ could have on an individual that has caused the harm and their views on the use of a restorative process for survivors of sexual harm. The consultation ranged from emotional implications to the practicalities of the intervention.

To ensure a trauma and person-centered approach skilled professionals (David Russell, Midlothian Council & Gael Cochrane, Community Justice Scotland) facilitated 1:1 face-to-face interviews with adult males in custody convicted of a sexual offence(s). The Scottish Prison Service (SPS) worked collaboratively with facilitators in ensuring all eligible candidates had the opportunity to engage in this voluntary consultation.

All eligible individuals were provided with a document that highlighted a basic summary of RJ and a breakdown of the consultation including how the collated information would be used post-interview. Individuals that wished to take part in this project would inform a member of the SPS staff and they would be added to the waiting list. Individuals were frequently informed that themselves and any information shared would be anonymised.

Limitations of this study were identified due to all males participating in the study were residing in a custodial environment and self-selected for interview. During the interview period of this study, substantial local and national media coverage of RJ was present and may have influenced some responses.

Ethical considerations were held central to the delivery of this study which is demonstrated in the diversity of candidates that took part in the interviews.

KEY FINDINGS:

- Convicted of a sexual offence(s) stated they took responsibility for the harm caused.
- Child sexual abuse and adversity was a prevalent theme throughout the participant's early years experience.
- 39% of participants disclosed that they were convicted of non-recent offences.
- 56% of individuals stated that their convictions were for offences against children under the age of 16.
- The majority of participants had a clear understanding of the RJ process. Some participants learned about RJ through watching televised drama.
- The majority of participants identified RJ as a victim-led process.
- Participants expressed a variety of motivations for taking part in an RJ process; the most prevalent were accountability and aiding victim recovery.
- Stigma and shame were prevalent themes throughout all interviews.
- The majority of participants expressed a negative view of sexual offenders, particularly those that had committed offences against children.
- There was a recognition that if the process is not carried out properly that the persons harmed could be harmed further.
- The participants appeared to recognise that a safe, secure, and facilitated environment are necessary for RJ to be successful.

CONSULTATION AIMS:

- To capture the voice of individuals that have caused sexual harm and gain insight into their views on the use of RJ
- To gain insight into an individual that has caused sexual harm understanding of RJ
- To gain insight into the motivation of a person that has caused sexual harm engaging in RJ
- To allow individuals that have caused sexual harm the opportunity to voice their opinion on the impact RJ may have on them and others
- To understand barriers that may impact individuals that have caused sexual harm engaging in RJ
- To produce a comparative consultation to 'The National Consultation: Survivors Voices' (Thriving Survivors, 2021)

CONSULTATION INTERVIEW QUESTIONS:

- What do you think the RJ process might involve?
- Reflecting on your own experience do you feel the RJ Process would be/would have been useful for you?
- If you were able to take part in an RJ Process what would you hope/ have hoped to get out of it?
- Do you see any barriers that might make taking part in this process difficult for a person that has caused the harm?
- What barriers do you think might impact a survivor?
- What should facilitators consider the most when undertaking an RJ Process?
- Are there any barriers that might make it impossible for a person that has caused the harm to take part in the process?
- At what stage do you feel an RJ Process should begin?
- How do you think you might feel when you hear about the impact your offence has had on a survivor?
- Do you feel any specific crime should be excluded in terms of an RJ Process?
- If a person that you harmed approached you to take part in an RJ Process how would you feel about this?
- Do you feel there would be any negatives/disadvantages of engaging in an RJ Process?

CORE DATA FINDINGS

Prior to interviews commencing participants were offered the opportunity to provide core data to support the consultation. This was a voluntary option that all participants completed or partially completed. This approach was taken to reduce feelings of shame and ensured participants felt comfortable in sharing their own experiences in a safe and trauma-informed approach. The capture was broken into two parts:

CORE DATA

Age
Gender
Country of Birth
Sexual Orientation
Religious Belief
Length of Sentence
Interviewer
Date of Interview

VICTIM CHARACTERISTICS

Was the victim or one of the victims a family member?
Excluding family, was the victim/s known to you?
Was the victim a current partner?
Was the victim an ex-partner?
Was the victim a stranger?
Did you first contact the victim online?
Was the victim a child under the age of 16?

RESPONSES FROM PARTICIPANTS:

32 participants stated they take full responsibility/admission for the offence(s) in which they have been convicted

6 participants stated they take partial responsibility/admission for the offence(s) in which they have been convicted

4 participants stated they completely deny/claim innocence for the offence(s) in which they have been convicted

VICTIM CHARACTERISTICS:

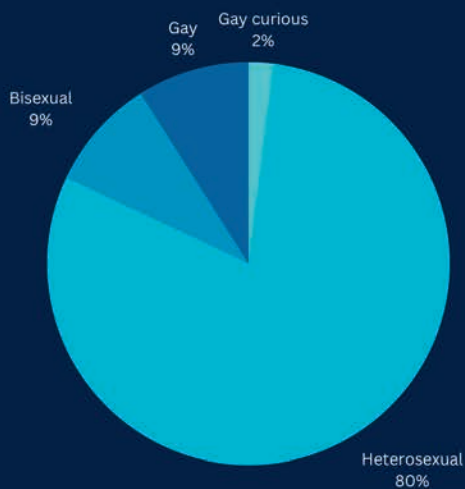
The following characteristics were captured within this domain:

32% (14) - Stated victim was a family member (excl. partners)
61% (27) - Stated victim was known to them (excl. family)
11% (5) - Stated victim is current partner
59% (26) - Stated victim was a child under the age of 16 (at time of offence)
27% (12) - Stated victim was an ex-partner (partner at time of offence)
30% (13) - Stated they first contacted the victim online
14% (6) - Stated victim was a stranger

OVERVIEW OF CORE DATA COLLECTION:

The average age of participant was 48 years old however the age range varied from 21 years to 82 years with 39% disclosing their offence was non-recent, a theme most prevalent within the older population. Participants predominantly identified Scotland as their country of birth. The dominant religious belief was identified as 'Church of Scotland' (25%) but the majority (45%) of participants stated they had no religious belief. Other religions stated were: Catholicism (11%); Christian (7%); Muslim (7%); Baptist (2%); Church of England (2%).

SEXUAL ORIENTATION:



The predominant sexual orientation of this group identified as heterosexual.

SELF-DISCLOSED RELEVANT DATA:

The consultation concluded with 44 1:1 interviews with individuals residing in custody. As noted above the consultation had a set criterion of questions and data collection however, a recurring theme of 'an experience of childhood sexual abuse' became apparent at an early stage in the project. Out of the 44 individuals that engaged in this project 32 participants disclosed experiencing or being exposed to some form of adversity or childhood sexual abuse in younger years. These experiences ranged from contact sexual abuse as a child to sexual humiliation within adolescence. Facilitators intentionally did not ask individuals if they had experienced adversity within childhood. The rationale for this approach was set in two areas:

1. Facilitators were conscious they had a short and anonymised interview with each individual, therefore to ensure a trauma-informed approach was utilised they allowed the participant to share experiences if they felt safe to do so.
2. Facilitators were aware of the risk that by asking set questions relating to a possible victimisation of the person that has caused the harm may have led to a form of justification of their offence(s).

SEXUALLY TRAUMATIC OR ABUSIVE EXPERIENCES THAT INDIVIDUALS SHARED WERE AS FOLLOWS:

- Intra-familial sexual abuse including sibling sexual abuse
- Childhood sexual abuse – harm caused by an adult
- Peer sexual abuse within adolescence
- Emotional or physical neglect

NEGATIVE SEXUAL EXPERIENCE:

Although we consider the above categories as 'negative sexual experiences' this sub category was defined by disclosures of areas such as erectile dysfunction; withdrawal of consent during sexual activity; poor hygiene. The emphasis on 'withdrawal of consent' appeared to relate to a feeling of an inability to achieve or sexually satisfy another.

THE IMPORTANCE OF PSYCHOSEXUAL HISTORIES WITHIN SEXUAL HARM:

The impact that childhood adversity has within offence cycles is well documented (Grady et al, 2016; Kahn et al, 2020). Consideration to an individual's sexual history can provide insight into early-lived experiences that may have influenced a person's understanding or views on sex and sexuality (Leonard & Donaghy, 2017). To ensure a comprehensive assessment of sexual history is accurately gathered, Leonard and Donaghy suggest that wider social history factors should be considered that include: context of early attachment/family relationships and interactions; their observations, relationships and experiences; sibling and peer influence; extended family; social experiences and interactions; sexual contact with others; sexual informants including media and social media. In capturing some of the above key themes can influence the way in which an intervention is designed such as showing an indicator to the place that coercion and control has or may have started within early sexual development. Considering early experiences of where coercion or control has been formed such as within a family dynamic or environment to instrument sexually inappropriate or abuse behaviours to a sibling may give professionals an insight into the presence of this risk factor and arguably influence the suitability or unsuitability for a particular intervention. This approach demonstrates the importance of avoiding categorising sexual harm as one definitive crime index and the need to individually assess the spectrum and range of cases involving sexual harm.

CONSULTATION INTERVIEW RESPONSES:

The 12 set questions were aimed to provide insight to the motivational factors of the person that has caused harm taking part in a restorative process. Responses varied from each interview however the majority of participants stated they had some or a sound knowledge of what RJ is and gave examples of RJ tools and techniques.

(EACH 'PARTICIPANT RESPONSE' WAS SELECTED FROM THE 44 INTERVIEWS CONDUCTED)

Q1 - What do you think the RJ process might involve?

Question Rationale: To capture participants level of understanding of RJ

Facilitators Analysis:

The majority (41) of participants demonstrated some or a clear understanding of RJ with a minority (3) stating they had no knowledge of the process. The term 'victim' appeared in the majority of responses to Q1 with emphasis on supporting a survivor being central to restorative processes. It was apparent that the majority of participants understanding of RJ was direct restorative meetings with no alternative models stated.

Participants appeared to demonstrate some understanding that they would have to hear about the impact of their offences on the person harmed. They expressed that persons harmed may hold some elements of blame and responsibility for the harm. There was an understanding that there may be dialogue and the restorative process could address feelings of shame and blame.

Participant Responses:

"Reflect on how badly it has affected people and sort of come to terms with it, and hopefully make it better"

"It's bringing victim and perpetrator together to let the victim have a chance to confront, don't know if this is too strong a word, but to say what it made her feel like in my case, and how it has affected her since the crime"

"From my understanding it gives the victim the chance to meet you and tell you how your offence has affected them"

"I would say it should be helping victims to understand why it happened and they weren't to blame, it was, you know give a reason why the person did it, kind of maybe emphasise to the victim that they weren't to blame and I'm guessing if it happened to me I'd be wondering why me, why specifically me? I think if I was a victim I'd want, hope to get an answer why did it happen, why did the person do and why did they chose me to do it to me?"

"It would be having dialogue with a victim of crime whether it's a serious offence or a non-serious offence, so it would be discussing the lead up to the offence and the kind of impact it's had on the victim"

"Them and me asking questions, you know, why did you contact me, what where your feelings about me at the time just sort of those of things"

Q2 - Reflecting on your own experience do you feel the RJ Process would be/would have been useful for you?

Question Rationale: To provide an understanding of factors that would motivate a person that has caused sexual harm(s) to take part in a restorative process

Facilitators Analysis:

Motivational factors have been a core element and arguably central to risk management (Shapland et al, 2022) within the development of specialist services delivering RJ in complex or sensitive cases. Although facilitators were conscious this was an area that would require substantial assessment, the aim was to capture an initial response from participants to start to form an understanding of what would influence their involvement in a restorative process.

Some of the participants expressed that they would like to take part in an RJ process, as they acknowledged elements of harm that they have caused in the past. Some participants didn't recognise the harm at the time (of the offence) because of their attitudes, as well as peer influences and the environments in which they were living. Some expressed wanting to gain a deeper understanding of themselves and why they committed the offence(s).

Some participants appeared to want to give the person harmed closure, they expressed wanting to be accountable for their actions, as well as having the chance to explain themselves, which they felt the traditional justice system did not give them. Importantly, many of them recognised that they cannot change the past but that there "has to be hope" for change in the future.

This demonstrates a range of different motivations for involvement in RJ and highlights the complexities and further need for assessment.

Participant Responses:

"In my case most definitely, most definitely because even before I was given the sentence I'm serving, when my victim took the stand it was a historic crime, but the way she was talking on the stand I recognised the old me. I really recognised, what she was saying, you know you don't have to verbally say stop don't do that. It just rang in my head that was me, the way my attitude was towards females, per say, not using fancy words out of context to impress you, but I genuinely listened and it hit me, that was that little bastard that I was and I went home and discussed it with my new family and I didn't take a stand to, to say nah, well you know it was, it was so true that was me"

"Yeah suffered it when I was a teenager so I know what it feels like, but I'm not blaming anybody for this but myself I know it was wrong, I was mixing with the wrong people and I was under the use of alcohol at the time, I wish now I could change the past and I can only learn for the future"

"Yeah I think so, I've sort of worked out some of the things when I came to prison so before I came into prison I was guilty and I didn't admit my guilt at the trial. I should have done, I told my partner, she knew I was guilty, not of all of it because it wasn't all true but mainly, essentially most of it was and I should have done what my partner said and admitted my guilt at the trial. Since I came into jail partly for being on my own at the start of my sentence. I had a lot of time to think about it and I realised I probably wouldn't have reached this stage, understanding why I did it and admitted fully to myself if I hadn't been found guilty and if I hadn't gone to jail I think I would've kept it stuck in my head"

"Yeah, I think it would have. The justice system was a one-way system and it didn't feel fair. I think RJ would let me explain myself better and give me the chance to do this. It was like at court they weren't listening".

Participant Responses:

"Yes most definitely cause I have always said to my lawyer if I could sit down with the victim I could help give her closure by telling her why I did what I did. I would love the opportunity to be able to say sorry and try and help them get on with their life as best as they can. I was abused as a child so this is probably where a lot of my offending came from, this isn't an excuse but I would like to tell her where I have been in my life and help her understand the abuse I have went through and how this has affected me in my life".

"Yeah, I still want to find out where this all came from"

Q3 - If you were able to take part in a RJ Process, what would you hope/ have hoped to get out of it?

Question Rationale: To capture the hopes and aims for an individual that has caused the harm taking part in an RJ process

Facilitators Analysis:

Many of the responses to this question followed the same theme as participant's motivation for taking part in RJ and expanded upon them. Core responses indicated participant's hopes for the process would be to support victim/survivor recovery. However, many participants mentioned the use of RJ in supporting their understanding of their offence: hearing the impact their offence has had on another; preventing them from further harming; routes to why they harmed.

Although responses varied, it was apparent that participants predominantly identified the value in listening to a victim/survivor and how this potentially could support recidivism within this crime index and aid victim/survivor recovery. A minority of the group indicated some aspects of minimisation within their responses stating the RJ process could support them to either inform the person harmed that their crime was lower level than accused or challenge what they deemed as false allegations. It should be noted these participants would not necessarily be deemed suitable for a direct RJ intervention.

Participant Responses:

"Apologise and tell them I understand, I've turned my life around and I've took myself away from films I shouldn't be watching and forms of sexual violence. I don't watch them anymore. I go right, I don't want to watch this anymore, some things I can watch some things I can't watch on tele and with a lot of support from psychologist it's helped me a lot in here. My aim was to end sexual violence I wanted to end it and I would like other people to get on like we used to in Scotland us guys, boys and girls used to get on, and there's too much negatives these days and people saying it's our fault and that. You are only responsible for your own actions"

"I would hope to get closure for my victim and also a greater understanding why I took that path in life and how, over the years come to be what I am now cos I'm a totally different person as I said my crime was a historical crime going back decades, 10 years, decades but that still doesn't lessen the charge, I think it would give my victim closure and also allow me, right, to know I've done the right thing by you now (Facilitator reinforces the point) right, you know, with a help of a professional, I can't answer those type of questions because I don't have the tools, that's what, I don't know how to express. I'm not saying, you know, aye it happened this way it happened that way, what I realise is there are many forms of consent and it didn't, and honestly until she took that stand, you had to be there, it was like a moment in time that it came into my head, that was my attitude, that was the way I was"

"Well for me personally it would be, seriously for my own personal self it would be, the biggest thing I could get out of that would be a level of forgiveness, which is totally in the hands of the victim but also to try and put across to the victim that you really want to do well, do good and totally amend any wrong thing that you have done, just show how sorry you are. It's so easy in here to, you are locked up 22 hours a day, and you are climbing the walls and think oh why, in their own self. They could be prisoners themselves within their own being from what happened to them and what you caused to happen to them, arrogance and the you know, wrong things you did so. Hopefully to give them something so they can walk away thinking well, yeah, I'm feeling better because that what it's about. People in here don't realise that, not everyone some people do, but others don't realise the suffering they've caused and I do now, yeah it's not good not good at all but I am determined no matter what"

Participant Responses:

"Well it would be interesting to know if I have harmed the victim in any way because there's load of emphasis put on the harm done etc. if he was to come to me and say you've ruined my life, or I thought about suicide, I hate you or I want to rip your eyes out I'd be very surprised, but it also I think that would be helpful. I don't see my crime as a crime, I mean this isn't my first sentence, this is my first sentence of a sexual offence which is the first time I would say. Don't know how to explain it"

"For me knowledge of my index offences, I know that sounds mental, recognition of what lead to it and why it happened and where I could probably prevent it in the future"

"To get more an understanding I suppose, what RJ would include. (Further explains what RJ is) being heard and hearing other peoples perspectives, what do victims of sexual nature, how they feel, getting an understanding of how they feel because when people have sex with someone who is underage at the time, you aren't really thinking about the consequences for what the impact is on their life, how's this going to affect them in the future. At that time you aren't empathising for the person at that age and they are vulnerable. But at that time you don't see them as vulnerable because they come across as confident and stuff like that. But once you've been convicted of a crime of that sexual nature, and then wait a minute, what impact have I had. The courts have had an impact on me, the prison has had an impact on me it's took my career away from me, its took everything away from me. But you don't really understand how much it has taken away from them and It would help hearing what victims have got to say. Because it's important for them to get their views across as much as it is for those who have been convicted of sexual offences or other offences. So the victims get to hear the other side of the story"

Q4 - Do you see any barriers that might make taking part in this process unsuitable or difficult for a person that has caused the harm?

Question Rationale: To gain an understanding of any barriers that may make an RJ process difficult for a person that has caused harm to engage

Facilitators Analysis:

Within this population stigmatisation is a significant barrier to those responsible for the harm. This can be related to the complexities of admission and denial. Participants shared views that shame or embarrassment has had at a previous or current stage influenced their honesty when being confronted about the harm they have caused. It is essential that we consider the implications shame can have in relation to denial and not assume an individual is denying due to deviancy, but rather the wider impact on their own and family members lives.

This area highlighted the importance in preparative work prior to direct RJ intervention that allows the participant the time to process the harm they have caused. A number of participants also emphasised the importance of the person responsible for harm to be accountable or be found guilty for the RJ to take place, recognising that denial/shame is a barrier to moving forward. The concept of "reintegrative shaming" (Braithwaite, 1989) is useful when thinking about how an RJ process could potentially help persons responsible for harm move away from "stigmatising shame" to "reintegrative shame" and taking accountability for their actions.

Participant Responses:

"Out there hates sex offenders, we are the lowest of the low and people want to hurt us. I think trust would be important because people would see what you look like and know more about you. It would take a lot of trust to make sure that I am going to feel safe and not be attacked or exposed in the papers"

"They would need to plead guilty for it to work. You couldn't do it if they are denying it happened, as that wouldn't help anyone. The motivation is important to understand in case they want to do it to progress quicker in a sentence or something like that"

"From somebody who has admitted that, perhaps the embarrassment, facing it. It's not a situation I'm in but perhaps that would be a major barrier"

"Not really, I'm quite open, if anyone asks me questions about it I'll tell them I've got nothing to hide personally and I'm happy to talk about it. I know where I went wrong, I know how I should have went about things and if I could change things I would"

"Facing up to it, I think is most important part of it. I found it difficult as I said before the trial, I knew I done it and I did tell my partner eventually but even at that point I don't think I fully faced up to what I had done. I had to be put in prison before I could look in the mirror myself and say I had done this and you know it wasn't somebody else it was me. I think for a lot of people they've got a kind of hardened attitude to it, it's like to me you've been caught you've been found guilty, you definitely did it now is the time to try and help in some way. Help yourself or help the people you have harmed. It's the time to start doing something"

"I think shame would be a significant barrier to a lot of people, maybe not everybody. I know you've been in the hall and there's a few other prisoners and there's a lot of people who are shameless, there's people who are satisfied with what they have done and there's others who won't admit they've done it. For the majority of people shame would be the biggest for people and for others denial"

Q5 - What barriers do you think might impact a survivor?

Question Rationale: To identify themes of empathy with people that have caused harm

Facilitators Analysis:

Empathy has been held central to a variety of assessment models in working with individuals that have caused sexual harm (McMurrin & Ward, 2004). Some participants reflected how the RJ process might support the person that has caused harm to understand the impact they have had on others by being part of a face-to-face intervention that allows them to hear directly from the survivor. We were acutely aware of the potential limitations of this question and utilised trust within the core RJ value 'honesty' (Scottish Government Guidance on RJ 2017; European Forum for RJ, 2021) to participants in the hope responses were shared based on their own belief system. We note that shame or fear of judgement may have influenced participants to respond in a sympathetic manner that may or may not have represented their genuine views.

Participants stated that the biggest barriers that they could see stopping the person harmed taking part in the RJ process was that of fear, coming face to face with the person who has harmed them. Many participants expressed an understanding of PTSD symptoms and were aware that for some survivors meeting the person that harmed them may be traumatic or detrimental to their wellbeing.

Participant Responses:

"Bringing it all back to life again and bringing it back to their life.you could show the beneficial affects you all know what they are, for me it would be healing for them, that they could live their life.... not having to walk around in fear, no panic or anything. That could be a step for them. I'd imagine that would be one of the main barriers for coming in that it could bring it all back to life when they feel like they are getting over it which is fair enough, that's up to them"

"I think fear, coming face to face with your abuser, attacker. I don't actually see why anybody would want to do that, why would anyone want to put themselves through that, I mean it would be in a protective environment but. Do you not think it might bring the offences back to the person maybe, I don't know"

"Well like a victim or survivor they are going to have the impact of having to face like their abuser and that could be quite difficult cause that could trigger PTSD they could get a nervous breakdown stuff like that. Like there's a lot that could be in the process like maybe having some counselling put in place, so that like they can help, obviously cause victims are going to be traumatised from their experience and the counselling having a counsellor there at the time when they to put their views across may help calm their anxiety, their nerves stuff like that"

"Some may not want to see the people that have abused or hurt them so badly and I think a strict assessment of their needs and they are willing and wanting to engage. They should but have a lot of support the whole way"

Participant Responses:

"I think you'd be scared. Let's play devil's advocate here. Let's pretend my victim is the other side of this table, she'd be terrified, I think she would be, she has not seen me for ten years so she would be wanting to jump over and knock the days out of me or say a lot of nasty stuff, and the problem I have is shutting up and just listening but I think if my victim was on the other side of the table I would shut up and I would listen because I'd want her to say everything. But the fear she may have, may be, here he is again, will he intimidate me or, I'm going to be feeling scared or something down the lines of that. So I think, yeah my victim might be scared or might get flashbacks, make them think well I'm seeing him again. And it might bring memories back and might give them problems with sleeping"

"Traumatising for them. They obviously don't want to see the perpetrator I would put that a barrier for them. It might make them feel sick, if they already had mental health problems and them getting back to their normal selves it might bring all the memories back and have to go all through that again"

Q6 - What should facilitators consider the most when undertaking a RJ Process?

Question Rationale: To identify what expectations participants have on facilitators role within an RJ process

Facilitators Analysis:

Participants highlighted a number of key themes within the professional debate that included the need to consider risks of re-traumatisation and motivation. Some responses highlighted the need for a person that has caused harm to take full admission prior to any RJ intervention. The theme of re-traumatisation and deviant motivational factors was subtly apparent, including the use of an RJ process to be used to commit further emotional harm to a person harmed. A high level of responses noted the importance that the facilitator albeit should be impartial, should hold the person harmed central to any RJ process.

Participants identified that the mental health of both parties should be monitored by the facilitators, and that all people involved should have the ability to withdraw from the process at any time. They spoke about the importance of maintaining a safe and secure environment, and they suggested using technology to allow this e.g. using video links if they personally do not feel safe in the same room as the person who has harmed them.

Participant Responses:

"The psychological state of both parties here, can the offender cope with that situation, can the victim cope with that, and that's a very big thing and come back to. what's the outcome going to be and the expectations of both"

"I think the emotional sort of side of it. Speaking for myself, I was abused as a child, if was to face my abuser I don't think I'd feel very comfortable but it might be interesting to see. As for safeguards I think making sure the victim is aware they can pull out any time, if it gets too much just say. Emphasising that they are in control, obviously with sex offences it's all about control"

"The environment, the risk factors, getting someone who has committed an offence and just taking into account the risk factors of having these two people in a room. You want them to be comfortable, you don't want them scared to face what they are about to face. It could be a process that actually helps, it could actually help people realise wait a minute I've made a massive mistake, how can I rectify this, how can I make amends? You don't really realise the damage that's been done mentally and it's about how you can fix that, how you can maybe help them or help bring their confidence back in a way. I think it would be good if victims and survivors were able to hear other people perspectives, they might be able to take something away from it. Wait a minute he' realised where he's went wrong and he's changed a lot"

"The lasting harm it can create to somebody. I was their father, I shouldn't have done things like that. It's just the lasting harm and how you can help somebody to understand it wasn't their fault and that the person who did it was completely wrong and this just shouldn't happen. Because otherwise the person that's been harmed might go throughout their lives carrying it, the more I think you can get across to them they were completely innocent and the other person was completely bad, the greater chance they will be able to get closure on it"

Participant Responses:

"So looking at it from the victim's point of view, is the victim happy to do it. Is it a safe and secure environment for the victim, what safeguards are put in place to ensure that the perpetrator and the victim aren't sitting maybe two metres apart. So it could maybe be a video link, and then looking at it from the perpetrator, age, maturing age, is there a learning difficulty so take that into account for the perpetrator. Certainly from the victims point of view, if they are needing closure this might assist them, do they understand the whole procedure as well because it's not an opportunity for the victim of the offence to come face to face with the perpetrator and then be abusive towards the perpetrator at the same time. I think some perpetrators might not feel this impact, but does it help being abusive because then the perpetrator can close down and not wanting to have dialogues"

"I don't know, whether the perpetrator is accepting what they have done would be a big one. Whether they've agreed to it because they want to partake in it and get something positive from the situation or have some other goal or something"

Q7 - Are there any barriers that might make it impossible for a person that has caused the harm to take part in the process?

Question Rationale: To identify any factors that may make it impossible for a person who has caused harm to engage in a restorative process

Facilitators Analysis:

A range of themes were shared via this question that again emphasised the element of shame. Some participants noted they had concerns in relation to family members in the community and the risk that taking part in RJ may pose to them, which included vigilante groups or exposure within their own communities.

Professional identity appeared to have some impact with reference being made to professions and their suitability to facilitate RJ. Mental health and learning disability were highlighted as areas that may make engagement impossible depending on an individual's state of mind, and their ability to understand the process that would ensure a fair and safe approach.

Participant Responses:

"Yeah. The way I look now isn't the same to when I came in, so if she would come in and meet me for example then she would know what I look like, and from what I remember rightly they get to bring in support with them. So for me in my head I'm putting myself at risk and putting my support network at risk. If anything were to happen to my support network it would just be tits up, it would be game over"

"Yeah I think shame, as I said I'm ashamed of myself, shame, embarrassment and the bravado from other people. There's another thing that's new to me. I've never been in prison before, never been in trouble before it was the fact that, it was a bit of a culture shock for me, that not just sexual crimes other form of crime types, people do the crimes go to prison and go out and they do it all over again and they are back and forward back and forward (the revolving door or prison). I don't understand that, I don't know why they didn't get the message the first time and look deep into their soul and see what they've done and them admit it and ask for help instead of keep coming back to prison. I think from speaking to other prisoners that might be the biggest problem, people who won't stop doing it, or can't help it. At first when they were talking about, it it's almost like it was in code (their sexual offences) but they talk about making mistakes, I just don't like that. You didn't make a mistake, I didn't make a mistake, I did something bad. So trying to get across to people, I think the whole point is it is done out of selfishness and trying to get the message across to people they've done something bad and should never do it again I think that's a real big problem. Because some people keep repeating the same type of offences"

"I'll give you an example, if someone said to me it was a criminal justice social worker (the RJ facilitator) I wouldn't have come"

"The two parties concerned, the victim and the perpetrator, the one i.e. myself are willing to I can see no barriers"

"The person who has been convicted could actually have fear of facing their victim because of obviously they've went through court and they've been put through a significant amount of stress through the process, but there's a good reason for that. The end of the day you have committed the offence and you have to take responsibility of your actions"

Participant Responses:

"I think especially peoples mental health, a lot of people in prison I have found have learning disabilities and I think that like not really understanding processes. I find that to be an issue like people not being able to articulate properly what they mean or feel"

Q8 - At what stage do you feel a RJ Process should begin?

Question Rationale: To understand when participants feel it would be appropriate to start an RJ process after the offence(s) has been committed

Facilitators Analysis:

The majority of participants felt the RJ process should only take place once the person that has caused the harm has been convicted and takes full responsibility for the harm. There was some reference to allowing individuals to have a time period spent in custody opposed to engaging in RJ immediately. This was to allow time to engage with programmes, which some believed could help evidence a person's motivation and suitability for RJ. It was reflected in some participant's answers that they have thought about the impact of their offence(s) and that this would be something that might encourage them to participate in RJ.

Some participants saw benefit in the use of RJ prior to the court process to allow the person responsible for harm to hear about the impact, and also to give them a chance to discuss what has happened to get a fuller understanding of the harm, "It could come across things that would never come up in a court case so it might help with a case". There was a reflection that attitudes/views towards the harm committed may change over time.

Participant Responses:

"I think that if it was going to take place after a conviction and an offence behaviour program and then you are at a position to decide I want to look at the behaviour I have learned. It shows that someone is taking responsibility and admitting the crime they have committed. The programme would help determine a good mind set and appreciate the damage they have done. The emotions would still be too raw when they first come into jail so it's a long process and a steady journey it should never be rushed. Safeguarding is key and we need to keep everyone safe"

"Maybe after a couple of years, two or three years, maybe midway sentence cause they have had a bit of time to reflect on their behaviour, what they could have done different and maybe give them a bit of perspective, wait a minute I have put myself in this mess by doing this. Over this period of time prison has helped me realise and I am going to go on the right path when I am released, so that's what I would think personally. I've passed the halfway point and if I had the opportunity for RJ, if I was given that opportunity I would have took it up a long time ago"

Participant Responses:

"It should begin after you've been sentenced like after they've been to court"

"Personally I think it should happen when the allegation is made, before court so it can be used in court. It could come across things that would never come up in a court case so it might help with a case"

"Probably at the beginning so when you are starting at court, as long as they plead guilty otherwise there would be no point"

"I would probably say, when you get your HPR done, prior to the court sentence, then 6 months down the line if they get a custodial. 6 to 8 months down the line then you'll get a clear perspective for it. This is what they were thinking about it prior to this, and now see what they are thinking now, if they get a custodial or they don't get a custodial because you may find that their views have changed within that period, that's what I would say"

Q9 - How do you think you might feel when you hear about the impact your offence has had on a survivor?

Question Rationale: To identify victim/survivor empathy and to further explore motivational factors of engaging in a restorative process

Facilitators Analysis

This question identified a range of responses with the majority demonstrating some form of shame and verbal regret. It also highlighted levels of vulnerability for some people within this population with themes including suicidal ideation and depression. Many reflected on the impact that meeting face to face in an RJ process could have and shared the view that this would be significantly more difficult, but more meaningful than the process both parties undertook within the court system.

Participant Responses:

"Like I've seen articles in the paper of people that have been convicted of crimes and you do hear the victim impact like when someone gets murdered and you hear the victim's family and the impact it's had, it really floors you. It makes me think about what I've done and how are my victims feeling, how much of an impact has that had on them, like what have I done and how can I do things differently, how could I rectify this, how could I make it better? I want to help, I understand where I have went wrong and I would do anything to change it if I could. If I got another chance I would change everything"

"I would be disgusted at myself hearing it from the person. It's one thing hearing how it may have impacted on them but them telling you, that would be powerful"

"Well as a survivor myself it is difficult, I went through open secret and it is a very difficult process and I never even had anything to do with my abuser but it really affected me. The process was heart wrenching, mentally tiring and draining. It would be really difficult for them to face this. Also, making sure for people with existing mental health issues, they need debrief support and not just locked back up and left alone"

Participant Responses:

"To be honest with you it cringes me, I actually hate myself, I could let you talk to hall staff and they'll tell you, aye he may be in for a sex offence but he doesn't tolerate any sex offenders, I don't like sex offenders, I hate them, period. And that's what makes my offence even worse in my head, nobody can punish me the way I'm punishing myself now"

"I would feel ashamed and guilty. All the emotions a guy doesn't want to feel but it could be helpful and help you accept the wrong you have done. Everyone is different in their own way"

"I would say it would be overwhelming, a shock, give them a good insight into other people's feelings or what your actions have done to other people"

Q10 - Do you feel any specific crime should be excluded in terms of a RJ Process?

Question Rationale: To identify any crime types participants felt may not be suitable for a restorative process

Facilitators Analysis

Most responses to this domain suggested that no crime index should be excluded from some form of restorative process. However, some suggested instances of where this may not be suitable including crimes against children, domestic abuse and murder. One participant stated that it might be suitable for offences against children, if the person harmed is now an adult.

There was a recognition by some participants that the victim should always be at the centre of an RJ process and that if they want to participate then it should go ahead, no matter what the crime type. Participants in the main thought RJ should be suitable for any crime type as long as it is done properly "in a controlled environment".

Some participants were interviewed in the week that The Scottish Government launched their roll out of the RJ Action Plan, which had significant media coverage. It was apparent that this had an influence on some responses in this section and motivation to participate in the research.

Participant Responses:

"I'm not too sure, I think there's pros and cons to it. You could say offences of a sexual nature and then you could say murder. I still think it would be good if victims are able to actually hear your views and we are able to hear their views. So I think it would be good for all offences for it to be able to be explored and getting your views and their views across, hearing the impact. It gives you a chance to maybe show some empathy. If it's in a controlled environment I don't think there should be a problem"

"Yeah there's no definition for what the offence is, see if somebody has done it willingly, if there's actual remorse. That's when RJ should kick in, or if you would think it would benefit the victim or the perpetrator and obviously the perpetrator would like it and the victim doesn't, it should always be on the victim it should never be on the perpetrator, it should always be on the victim to say yeah or no. I know that seems mental for me to say that"

Participant Responses:

"Yeah I think people that have done stuff to children and stuff. I would hate to hear stuff like that if it was my ones, if someone had done something to them"

"I would have said sexual offences and domestic offences. I didn't know domestic abuse was something you couldn't get RJ before I seen that on the news. But also said on the news victims of murder. (Facilitator asks if participant associated RJ with less serious crime) I would yes, burglaries, muggings that sort of thing, assault or whatever somebody getting attacked down the street. You don't really see it for sexual offences"

"No definitely not you should be able to use it whenever victims want it"

"Any form of paedophilia unless it was with an adult victim who was abused as a child, but I don't think any child should have to go through this"

Q11 - If a person that you harmed approached you to take part in a RJ Process how would you feel about this?

Question Rationale: To capture individuals responses to their view in taking part in a restorative process

Facilitators Analysis

Participants expressed a range of feelings in response to this question. Many expressed that they would feel frightened, scared, nervous and apprehensive – given the nature of their offences. There was a recognition that they are not the same person now as they were when they committed their offence(s). Some participants were concerned about the safety of themselves and their families if they engage in the process.

Some participants highlighted fears and anxieties in this area, however many stated it would be "worth it" if this is what the person harmed wanted. There was a recognition that it would be difficult for the person harmed to meet with them and some appeared to articulate that they therefore have a responsibility to participate.

Participant Responses:

"Yes I would, I'd be nervous, , I'd feel an array of emotions, I'd be frightened, not frightened for my personal safety but frightened (Facilitator asks nervous for seeing them) yeah nervous, but I would face it, because they would deserve it, if they truly want to, you know, speak to me face to face and ask questions I would stand up and be a man about it because I am a totally different man now, as I say, I'm a lot older and I recognise that I didn't even like myself. I don't know if that makes sense"

"I would be surprised if that person was coming to me because of the harm that I have done, I don't think they would come forward to meet me. If they did approach, I would engage"

Participant Responses:

"I would feel apprehensive because I would wonder why they have approached me but I would take part to try and help them. I owe them this much to try and help"

"Probably not, well I don't know, I would need to think about it as I need to think about my family who are still outside these walls. I would need to be really sure they were safe and nothing I did would hurt them more than I already have"

"It would feel strange but if I could do some good for everyone involved it would be worth it"

"I would be keen to speak, I get it that it goes ... back to support, I would like to listen to them. I'd be scared but I would like that chance to listen to them speak and if I have the chance to speak, I would say I'm sorry"

Q12 - Do you feel there would be any negatives/disadvantages of engaging in a RJ process?

Question Rationale: To summarise any negative or disadvantaged attributes in relation to a person that has caused the harm participating in a restorative process.

Facilitators Analysis

The participants appeared to demonstrate an understanding of the power of RJ and its potential to go wrong if the process is not followed correctly.

They recognised that it would be impactful to hear about the harm directly from the person harmed and that it would be in the forefront of their mind.

There was an understanding that the process needs to be managed properly so that people cannot go off on "tangents" during a face-to-face meeting and that proper supports have to be in place for the person harmed so that there is a reduced risk of further re-traumatisation.

On the whole, participants thought that the positives of participating in the RJ process outweighed the negatives. This is in line with research regarding participation in RJ. Often those taking part recognise that there is a risk in doing so, but that it is worth taking that risk. (Shapland et al. 2022)

Participant Responses:

"I think for some there would be, because you would be bringing your offending to the front of their mind. Also, if it is negative experiences the victims talking about you've got to deal with that and that you've done that to somebody. You know while you are in prison you can sort of put your head in the sand almost, but if they were sitting there right in your face I reckon it would be quite upsetting"

"There could be negatives on the fact it could still have a negative impact on the victims. It could have a significant impact on them so a support network in place before it takes place would probably be good for their mental health and looking at the other side of the fence as well having support in place for them because it can be as traumatic for them, as well as the victim and with enough support in place it can go well"

Participant Responses:

"No I can't see anything bad about it I think it would be ok with me because I would be able to explain why I did it and that it was just pure badness and selfishness and I shouldn't have done it and give the background reasons for it I think I've said before. The reasons aren't an excuse there's no excuse for it. If you are asking people in general there might be people that might not take to it and find it difficult. If I'd been harmed I think I would find it difficult facing that person again"

"Perhaps the situation getting out of hand, you could talk to the survivors who want this to happen and the situation may go off on a tangent"

"The victims don't personally know me, so I would worry about my safety on the street but if it helped them I would do it"

"Maybe dragging up the past for both sides. The victim is trying to get on with their life and then they have to bring up all this again. Maybe they have a partner and have never told them about this, they would maybe need to at this stage and that could be hard for them. I do think if a victim wants this and it will help them this outweighs the negatives"

CONCLUSION

Throughout this consultation, the majority of participants identified the benefits of an RJ process, particularly for survivors of crime with few believing any crime index should be excluded. On the whole, they thought that the positives would outweigh the negatives and that the RJ process could be more useful than the court process to gain a full understanding of the harm caused.

A similar theme was evident within 'Thriving Survivors: Survivors voices' consultation that many people often experience dissatisfaction with the current criminal justice system which often leaves people feeling unheard and disempowered (Daly, 2011; Temkin & Krahé, 2008). Although we acknowledge RJ is not an alternative to the justice system, consideration should be given to its place within recovery and its potential benefits in the prevention of further harm.

The findings from this study have demonstrated that although some individuals responsible for sexual harm are at times unsuitable to engage in an RJ process due to concerns of attitudes, dishonesty, and the presence of coercive control, many within this consultation demonstrated attitudes that would deem them suitable to at least engage in initial preparation work. This would allow the facilitator to continue to assess motivational factors prior to direct meeting or communication with a survivor. Most participants that engaged in the study stated they took full responsibility for the offences for which they had been convicted and it was evident from the interviews that the motivation of some men to participate in RJ was to acknowledge the harm that they have caused. Other motivations were to understand themselves further to prevent further harm and some hoped to achieve through the process that they could give the person that they had harmed closure and support their recovery. A small minority thought that they could use the process to minimise the harm that they had caused, they would not be deemed suitable to participate in the process.

The barriers perceived by the participants for their own participation in the RJ process were predominantly those around stigma and shame, having the label "sex offender". They also had concerns for the safety of their family members and had questions about people's capacity to engage in RJ due to disability or mental ill health. However, they articulated that if the process could be "fair and safe" then barriers could be overcome.

Perceived barriers for persons harmed were those centred on the fear of facing the person who harmed you, fear of re-traumatisation and the activation of symptoms of 'Post Traumatic Stress Disorder' (PTSD). Participants discussed that this would be the role of the facilitator in the RJ process. They would be responsible for holding the person harmed at the centre of the process, making sure that the process took place in a safe and secure environment, that the mental health of both parties is monitored and ensuring the voluntary nature of the process is honoured.

This study has highlighted the need to consider a wider perspective on the term 'sexual harm' and assessment of relevant risk factors that are individually present within differing sexual offence(s) as opposed to taking a generic approach that may provide an inaccurate capture of a person's risk or suitability to engage in an RJ process.

RECOMMENDATIONS

- Facilitators undertaking RJ in the context of sexual harm/violence should be specially trained and understand the complexity and dynamics in cases of sexual harm/violence including assessing elements of coercive control.
- Existing psycho-sexual assessments and models of risk should be utilised when considering motivational factors and suitability for an individual who has caused sexual harm, participating in a restorative process.
- Requests for a restorative intervention should be assessed utilising a trauma-informed and person-centered approach, considering all parties needs within the restorative context.
- Preparative work should be a core element in supporting both parties to engage in an RJ process to ensure they are fully aware of what to expect throughout an RJ process.
- In cases that are deemed unsuitable or unsafe for direct RJ meetings, alternative techniques should be explored including the use of proxies or other indirect methods that may support survivor recovery.
- In determining a person that is responsible for the harm's suitability in taking part in an RJ process, wider consideration should be given to the potential impact this may have on their own families' safety and well-being. This domain should be considered within assessing the person responsible for the harm's suitability for engaging.
- Additional consideration should be given to those participating in an RJ process that have limited communication skills or learning disabilities to ensure the process meets their needs and ensures a neuro-divergent approach is considered.

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