**B(3) Example: Guidance on Managing Risk in the RJ Process**

**Guidance on Identifying and Managing Risk in Restorative Justice Interventions**

(Taken from the Scottish Government’s Guidance for the Delivery of Restorative Justice in Scotland (2017) and the Restorative Justice Council Practitioners Handbook (2016).

Following an assessment of eligibility for Restorative Justice (RJ) (please refer to page 3), the facilitator must:

* Carry out an RJ risk assessment (please refer to guidance on pages 6-8 and blank template on page 9) whilst assessing the participants’ suitability and readiness for RJ, and assess and manage any identified risk throughout the process. The facilitator and senior practitioners consulted must recognise, and be responsible for acting, when there is a clear risk to participants’ physical or mental safety, (particularly the victim), meaning that the process does not commence, or is immediately terminated safely.
* Record risk concerns, ways in which these might be addressed, and refer these to the appropriate level of management and/or partnership agency (e.g. any concerns relating to child protection).
* Have regard to any existing Criminal Justice Social Work risk assessments (eg LSCMI) and consult the offender’s Supervising Officer on matters of risk and readiness to participate in the process, as well as check SWIFT records.
* Assess whether complex issues of intimidation and vulnerability require referral to a senior restorative justice practitioner, other professionals, or specialist support services in order to make an immediate decision on whether the process should be ended, and to discuss the consequences of this.
* Assess any risks relating to the participants (please refer to guidance on pages 6-8 – this is not exhaustive but provides some potential risks and actions). The facilitator should consider:
  + Participants’ feelings, attitudes and behaviour;
  + Whether their expectations of the process are realistic;
  + Their motivation for being involved;
  + Substance abuse and mental health issues;
  + Any physical or learning disabilities, mental impairment or ill health;
  + The emotional resilience of individuals and ability to cope with the process;
  + Any previous history between the participants;
  + Any power imbalances between individuals.
* Complete the Risk Assessment Checklist for Home Visits sheet (please refer to pages 4-5) prior to undertaking any home visits, or ensure they are aware of any such completed assessments, and have due regard to CEC’s Lone Working policies.
* Develop methods to manage any identified risk (involving others in the process such as supervisors) including:
  + Selecting which type of communication will be safe at each stage of the process.
  + Sequencing direct or indirect forms of communication to ensure safety.
  + Selecting venues for any meetings that will maximise participants’ safety and
  + minimise their anxieties or concerns.
  + Managing and balancing the presence/absence of supporters who can influence the emotional and physical risks of the process and its outcome.
* Review risks throughout the process, for example, taking account of timing of the justice process, the impact of substance abuse etc.
* Recognise when risk is unacceptable and end the process safely at the earliest and most appropriate point.

**Risk Assessment Checklist for Home Visits for Lone Workers**

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| --- | --- | --- |
| **Name/Swift number** | **Address** | **Telephone** |
|  |  |  |
| **Date completed** | **By whom** | **Purpose of Visit** |
|  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Yes** | **No** | **Not Known** |
| Any information recorded regarding violent, aggressive, or threatening behaviour towards staff? |  |  |  |
| Any specific risk to workers based on protected characteristics e.g. gender, sexual orientation, race etc? |  |  |  |
| Does the client have significant *unstable* drug/alcohol/mental health problems? |  |  |  |
| Are you aware of any intimidating/threatening clients/relatives/friends living at or likely to visit the property? |  |  |  |
| Are there any dangers/hazards associated with the property e.g. poorly lit stair, known anti-social behaviour, dogs, home hygiene? |  |  |  |
| Can you travel safely to/from the property? |  |  |  |
| Are you confident all safety measures are in place? |  |  |  |
| **Areas of concern/sources of information** | | | |

|  |  |
| --- | --- |
| **Assessment of Risk** | **Appropriateness of Lone Working** |
| **☐ No Risks Identified**  **☐ Risks Identified** | **☐ Appropriate**  **☐ Not Appropriate** |

|  |  |  |
| --- | --- | --- |
| **Action(s) taken to reduce/eliminate risk** | | **By whom** |
| **N.B. First visit should always be undertaken by two workers (unless otherwise agreed with your line manager)**  For example:   * Joint visits * Contact management immediately prior to and upon departure of location * Male/female only * Specific times for visits, e.g. daylight, during office hours only * Contact with other professionals involved prior to visit * Workers should not visit Bed & Breakfast accommodation | |  |
| **Date of discussion with Manager** | **Signed (Manager)** | **Signed (Social Worker)** |
|  |  |  |
| **Review Date** |  |  |

***Facilitating shuttle dialogue***

1. In the event the person who has harmed does not want to participate in face-to-face contact with their person harmed, shuttle dialogue, such as a letter of apology written by the offender, can be offered as an alternative. The person harmed must have agreed to receive a letter [and the letter once written should be shared with the person harmed]. The RJ Facilitator should not accept a letter or any other written communication directed towards the person harmed without the person harmed’s consent.

It is imperative that the final version of the letter is reviewed by the RJ Facilitator before being shared with the person harmed, to avoid re-victimisation.

**Summary of Potential Risks and Example Actions**

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| **Risk factor** | **Summary of risk(s)** | **Action(s)** |
| **Participant expectations of the process** | The person harmed may desire a verbal apology from the person who has harmed, or the person who has harmed may desire a verbal statement of forgiveness from the person harmed. Neither of these outcomes are considered essential to the Restorative Justice process, and it may be that the hopes and expectations of both the victim and offender may not be met. | All attendees will meet with the facilitator in advance of the RJ intervention and expectations should be managed sensitively by the facilitator, both prior to and during the conference. |
| **Participant motivation(s) for being involved** | Persons who have harmed may wish to take part in the process as they think it might encourage leniency in the criminal justice process, or that they may be viewed more favourably by Supervising Officers regarding supervision compliance. Persons who have been harmed may wish to take part due to a desire for retaliation. | All attendees will meet with the facilitator in advance of the RJ intervention, and their motivations for participating should be assessed. The voluntary nature of the process will be emphasised, and any prior history or relationship between the participants will be explored.  Facilitators should carefully monitor any communications between the offender and victim for signs of manipulation. |
| **Substance use** | One or both parties may have issues with substance use. | Ensure all parties attending the meeting are aware they should do so free from the influence of alcohol and/or non-prescribed substances. Ensure a robust assessment is made of the person’s readiness to undertake an intervention in relation to their stability. Terminate the meeting if it is apparent a participant is intoxicated. |
| **Any physical or learning disabilities, mental impairment, or ill health** | One or both parties may have a learning disability, and/or mental/physical health difficulties. | All attendees will meet with the facilitator in advance of the RJ intervention, and consideration should be given to the impact that any disabilities and/or mental health difficulties would have for the participant during the process, and how the impact might be mitigated. For example, participants may wish to include a support person at the RJ meeting. |
| **Participant communication** **skills/needs** | Either party may have limited literacy skills, have difficulty in making themselves understood, or may not speak English as a first language. | Consent should be sought from each party to ensure they are aware of this. An interpreter in the relevant language or BSL interpreter may need to be booked. Any agreements should be read out and recorded and sent in an appropriate format to all parties. |
| **The emotional resilience of individuals and ability to cope with the process** | The Restorative Justice intervention may trigger strong emotions in all participants. There may have been physical or psychological harm associated with the offending behaviour. | All attendees will meet with the facilitator in advance of the RJ intervention, to gauge resilience and coping skills. Participants may wish to invite a support person to the RJ meeting. Ensure there is a ‘break out’ space at the venue. Prepare the room with tissues. Ensure that the person who has been harmed has been signposted to support agencies if required, and that relevant support information is available for the participants on the day.  Consider the seating plan for the intervention and ensure the person harmed and the person who has harmed are not sitting next to each other.  Ensure the person harmed and person who has harmed are not left in the same waiting area together prior to the conference – consider asking one of the parties to arrive earlier. |
| **Any previous history and/or relationship between the participants** | It is possible that the parties may know each other (eg neighbours), have mutual acquaintances, and/or have had a history of animosity. | The attendees will meet with the facilitator in advance of the RJ intervention to explore whether there are any pre-existing relationships, and how this will be managed. Both the person harmed and person who has harmed will have consented to the intervention therefore it will be possible to remind both parties of the ground rules and promote positive communication. It may be pertinent for both parties to consider how they will manage any future contact following the intervention. Offences involving domestic abuse will not be considered for the RJ process at present. |
| **Any power imbalances between individuals** | There may be power imbalances in relation to protected characteristics and certain offences, such as hate crime. There may be an awareness that the person who has harmed has at least one conviction, but the person harmed may also have a history of offending. | All attendees will meet with the facilitator in advance of the RJ intervention and the facilitator will give consideration to any power imbalances. Specific guidance is available on working with persons harmed by hate crime and/or other offences, and consideration should be given to consulting Victim Support Scotland in relation to these issues.  Where the person harmed has a history of violent offending, additional information should be sought from departmental records as to level of risk posed and suitability for participation in RJ.  An open discussion should be had with attendees at the preparation stage regarding how much they wish to disclose in relation to any offending history or other personal matters, and agreed beforehand to ensure appropriate boundaries.  Facilitators should carefully monitor any communications between the offender and victim for signs of manipulation. |

**Summary of Potential Risks and Actions**

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| --- | --- | --- |
| **Risk Factor** | **Summary of Risk(s)** | **Action(s)** |
| **Participant expectations of the process** |  |  |
| **Participant motivation(s) for being involved** |  |  |
| **Substance use** |  |  |
| **Any physical or learning disabilities, mental impairment, or ill health** |  |  |
| **Participant communication** **skills/needs** |  |  |
| **The emotional resilience of individuals and ability to cope with the process** |  |  |
| **Any previous history and/or relationship between the participants** |  |  |
| **Any power imbalances between individuals** |  |  |