



The evaluation of Phase Three of the ACT Restorative Justice Scheme<sup>2</sup> provides compelling evidence supporting the retention of high-risk referrals to ARJC in Queensland. The study found that even in complex cases involving domestic, family, and sexual violence, participants (both persons harmed and persons responsible) reported high levels of satisfaction, increased feelings of safety, and meaningful outcomes such as emotional healing, accountability, and reduced recidivism. Importantly, the process was shown to benefit persons harmed regardless of the level of offender remorse, provided expectations were well managed. These findings affirm that, with robust safeguards and skilled facilitation, restorative justice conferencing can be a powerful and appropriate mechanism for addressing serious harm and promoting long-term safety and recovery.

Support for access to restorative justice in sexual violence matters based on stakeholder submissions and evaluations, including those mentioned above, was discussed in chapter 17 of the Australian Law Reform Commission's final report *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence*.<sup>3</sup> Chapter 18 of that report addresses the principles of restorative justice frameworks, including managing the risks of restorative justice in sexual offence matters.

### **Appropriateness of restorative justice to respond to sexual offences**

Key objectives of restorative justice include accountability by the perpetrator and the opportunity for reparation for the victim through appropriately managed interactions with the perpetrator. Restorative justice processes can provide victims with an opportunity to take part in a process that is devised to address harm.

Victims of sexual offending regularly report their justice needs include (among others): establishing a sense of control and power by telling their story; having input into a resolution; receiving an acknowledgment of wrongdoing by the perpetrator; reparation; reassurances of future safety; and, having a process that does not victim blame or trivialise their experience or re-traumatise them.<sup>4</sup>

Restorative justice can meet the needs of victims of sexual offences in a number of ways:

- Victims can tell their story in their own way unrestricted by the rules of evidence.
- There is acknowledgment by the offender of wrongdoing, establishing accountability.
- There is validation as the victim is believed without contest and their credit is not attacked under cross-examination.
- The victim has a say as to how the perpetrator can make reparations and address future conduct (for example, an agreement for the offender to attend certain courses to address their behaviour).

The restorative justice approach also holds perpetrators of sexual offences accountable given there must be an acceptance of wrongdoing for the process to work. Such accountability is not

<sup>2</sup> Lawler S, Boxall J & Downing C 2025. Restorative justice conferencing for domestic and family violence and sexual violence: Evaluation of Phase three of the ACT Restorative Justice Scheme. Research Report no. 33. Canberra: Australian Institute of Criminology <https://doi.org/10.52922/r77680>

<sup>3</sup> Australian Government, Australian Law Reform Commission, Final Report *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence*, ALRC Report 143, January 2025 <https://www.alrc.gov.au/wp-content/uploads/2025/02/JRSV-Final-Report-Book-for-Web-final-20250211.pdf>

<sup>4</sup> S Jeffries, WR Wood and T Russell, 'Adult Restorative Justice and Gendered Violence: Practitioner and Service Provider Viewpoints from Queensland, Australia' (2021) 10 (1) *Laws* 13.

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guaranteed in the conventional criminal justice system noting that sexual offences are met with higher attrition rates; lower rates of guilty pleas; and higher numbers of acquittals compared to other offence types.<sup>5</sup>

We observe the success of ARJC in high-risk matters is closely tied to the availability of appropriately qualified and experienced facilitators. The expanded model has demonstrated clear benefits in these contexts, offering a more responsive and person-centred approach than traditional sentencing mechanisms. Retaining this expanded model, alongside continued investment in training convenors with the necessary expertise to manage complex and sensitive cases, would help ensure that restorative justice remains a safe, effective, and meaningful option for those impacted by serious harm.

In our view ARJC should be expanded to include the use of private services with appropriate qualifications to allow participants in all regional areas of Queensland to access services and not be limited to the 'catchment' areas currently outlined in the OPM. In our members' experience, the private mediation process involves screening to ensure suitability for mediation, including in high-risk cases. Accredited mediators are adequately trained to ensure that this screening takes place appropriately and are well-equipped to recommend against proceeding to mediation should they hold concerns regarding risk.

With respect to determining suitability, it is our members' view that suitability assessments should be at the discretion of the appropriately qualified mediator and not left to the police or prosecution to determine. All complainants should be given the opportunity to participate in restorative justice mediation. The current process does not allow a complainant the opportunity to make an informed decision about whether mediation is an appropriate avenue for their individual circumstances and prevents them from accessing a process which could assist to repair harms experienced. Referrals should be made for any matter where the parties provide fully informed consent. Matters should be screened out only by a qualified restorative justice practitioner. Complainants should be given information about the potential benefits of the restorative justice mediation process at all stages of the criminal law process, so they may make an informed decision. Further, complainants should be given the choice of the public ARJC program or a private restorative justice service so they may find a suitably qualified practitioner who is experienced in the area relating to their individual matter.

### **Impact of ceasing referrals for adult sexual offences to the Queensland justice system**

The Society sees great value in the continued expansion of Court ordered restorative justice conferencing in adult matters. Currently, the Society is aware that delay in the order of 6—8 months commonly attends referrals to ARJC. Further, ARJC is only available in certain metropolitan districts of the criminal courts in Queensland. Victims and offenders in regional areas are deprived of the option of ARJC. It is understood that these limitations, including the delay, are a function of understaffing and underfunding of the ARJC system, which are further amplified by a notable increase in the referral rates to ARJC.

Research consistently demonstrates that restorative pathways are more cost-effective than litigation, offering the potential for substantial savings. High risk referrals also support a more sustainable justice system by alleviating burden of the judiciary and focusing court resources on the most complex contested matters.

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<sup>5</sup> Denis Lievore, 'Prosecutorial decisions in adult sexual assault cases: An Australian Study' (2005) [2005] *Trends & issues in crime and criminal justice* 291.

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The Society also recommends ARJC is underpinned by legislative codification, designed to entrench the principles of voluntary participation, accountability, prioritising the needs of the person harmed, safety and respect, confidentiality, transparency, an integrated justice response and clear governance. These principles are related to those recommended in the Victorian principle—based scheme<sup>6</sup>.

We would be pleased to meet with you to discuss these matters further.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [policy@qls.com.au](mailto:policy@qls.com.au) or by phone on [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly  
**President**

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<sup>6</sup> Victoria Law Reform Commission, Improving the Justice System Response to Sexual Violence (Report, September 2021 [9.64]).