

Working with female offenders in restorative justice frameworks: Effective and ethical practice

Isla Masson

Coventry University, UK

Linnéa Österman

University of Greenwich, UK

Corresponding Author:

Isla Masson, University of Leicester, 154 Upper New Walk, Leicester, LE1 7QA, UK.

Email: imm17@le.ac.uk

Abstract

Despite a recent increase in restorative justice practice in the criminal justice system, to date there has been no in-depth consideration of the impact of gender in these settings. This paper presents findings from a unique qualitative study on female offenders' experiences of restorative conferencing in England and Wales, drawing on interviews with practitioners who have worked with female cases, as well as with women who have gone through a restorative justice conference in a perpetrator capacity. Gender specific factors, suggested to be especially valuable for practitioners to consider when delivering effective and ethical restorative conferences with female offenders, are outlined.

Keywords

Restorative justice, effective practice, ethical practice, women, practitioner

Introduction

A growing evidence base shows that women enter the criminal justice system with different backgrounds and needs than men (Corston, 2007; Elis, 2005; Hudson, 2002;

Rumgay, 2004).¹ The challenges attached to these circumstances are often wide ranging. For example, research demonstrates that mental health problems and drug and alcohol misuse have significantly stronger links to female than male offending (Baird, 2003; Belknap and Holsinger, 2006; Malloch, 2003), and women who offend also report lower levels of self-esteem compared to male offenders (Dehart, 2008). Furthermore, women who offend are more commonly dealing with a range of problems, including living with the consequences of trauma and abuse (Covington, 2012), managing gendered aspects of childcare (Corston, 2007; Gelsthorpe et al., 2007), as well as being at a higher risk of self-harm and suicide (Light et al., 2012). Attention to gender-specific circumstances has become increasingly recognized in national legislation, such as the 2010 Equality Act and the 2014 Offender Rehabilitation Act, making it a statutory requirement to consider gender and eliminate discrimination on the grounds of sex.

Parallel to the developments around gender, there has been increasing political and academic interest in the use of restorative justice, partly due to high levels of victim satisfaction (Shapland et al., 2007; Strang et al., 2013) and offender desistance (Marder, 2013; Strang et al., 2013; Strang, 2015; Rodriguez, 2005). However, most of this literature is gender blind (Alder, 2000; Cook, 2006; Elis, 2005), or predominantly focuses on male samples.² It is known that so-called 'neutral processes', which are based on a male normative standard, often disadvantage women in the criminal justice system (Corston, 2007). In recognition of differences in female and male pathways to crime, experts in the field have called for gender-aware restorative justice practice (Alder, 2000; Elis, 2005; Verrecchia, 2009). Although exactly what a gender-aware³ practice should look like within the restorative justice field remains unclear, a core starting point must include a focus on women's needs and circumstances (Alder, 2000; Worrall and Gelsthorpe, 2009).

¹ For the purpose of this paper, 'women' and 'females' are used to refer to females of all ages.

² To date, research on women and restorative justice, commonly delivered by feminist authors, has almost exclusively focused on women as victims, and the appropriateness of restorative practices in cases involving domestic and sexual violence (Daly, 2002).

³ The terms 'gender-aware', 'gender-specific' and 'gender-responsive' will be used interchangeably.

Restorative justice interventions take many forms in England and Wales, for example, face-to-face conferences, community conferencing, referral order panels and mediation. Although it often occurs within the criminal justice system, ranging from pre-sentencing to post-conviction, it also sometimes sits outside of the criminal justice system.⁴ Currently in this country, restorative justice is more commonly used for young offenders (CPS, 2017), with positive outcomes reported (Ministry of Justice, 2012), yet there are also examples of good practice with adults (Masson, forthcoming). However, there is evidence that restorative justice conferences are sometimes affected by poor practice (Daly, 2008). This is not only detrimental to participants but also to the field as a whole. As such, Daly (2008: 134) has argued that ‘the ethical practice of restorative justice [. . .] may require a good deal more preparation and groundwork than what many have assumed.’ Effective and ethical restorative justice work with either gender involves multiple components, including allowing individuals to understand the harms they have caused and enabling participants to move on with their lives (Restorative Justice Council, 2016). However, the field must acknowledge that there are differences in offender populations and draw lessons from the existing body of knowledge of gender-aware practices in other criminal justice sectors (Gaarder and Hesselton, 2012). Recognizing the different needs and circumstances of male and female offending populations, the current authors suggest that a more tailored restorative justice practice may indeed translate to a more effective and ethical conference process with women. In turn, this is suggested to significantly reduce the chances of restorative justice conferences being experienced as an additional form of penalty, ultimately producing further pains of punishment.

These suggestions overlap with recent developments in the wider desistance literature, where it is recognized that certain circumstances, such as living in poverty, having low educational levels and struggling with addictions, affect both female and male desistance processes (Giordano et al., 2002). In addition, there are a number of gender-specific factors that especially impact female routes out of crime. These

⁴ For more detailed information regarding restorative justice provision at every stage of the criminal justice system in England and Wales, please see the ICPR’s (2016) mapping exercise.

include a greater influence of relational factors (Cobbina, 2010; Leverentz, 2006; McIvor et al., 2004), a more pronounced role of the development of personal agency (Eaton, 1993), and higher levels of loneliness and isolation linked to particular stigma (Baldry, 2010–11). Gender-specific issues that have the potential to influence the lived experience of restorative conferencing by women are therefore worth exploring. Drawing on first-hand experiences of practitioners and female offenders in the restorative justice field, this paper will outline factors and points in practice that could, and arguably should, be given particular attention within the delivery process of restorative justice conferences with female offenders. Though more research in the area is urgently needed, it is suggested that mainstreaming these gender-specific issues into the restorative justice field can offer a foundation for the development of gender-responsivity in restorative practice.⁵

Methodology

The data in this paper is drawn from a unique exploratory study, funded by the Anonymised for review and delivered together with the Anonymised for review, which ran from 2015 to 2016. It was designed to address a major gap in knowledge of female offenders' experiences of, and access to, restorative justice in England and Wales. The study was of a qualitative nature where semi-structured interviews were conducted with both restorative justice practitioners who had experience of working with female offenders in restorative justice contexts and women who had first-hand experience of going through a restorative justice conference. All data was coded and analysed through a semi-structured thematic approach. The ultimate objective of the research was to develop an evidence-based set of recommendations for effective and ethical working with women in restorative justice frameworks, with the view to increase the number of female offenders accessing restorative justice, as well as to ensure that women choosing to take part have positive experiences.

⁵ While the authors acknowledge the critical debates around gender-responsiveness and the suggested links for increased legitimization of female penalty (Segrave and Carlton, 2013), it is important to note that in this context gender-aware practices are not interconnected to sentencing options, or indeed female interactions with correctional facilities, but are narrowly focused on the development of a more tailored approach within existing restorative justice working frameworks.

The research project was ethically reviewed and approved by the University of Coventry's Ethics Board at its outset. All participation in the study was based on informed consent with time set aside for questions and discussion, and a consent form being signed. Participants in the study were guaranteed full anonymity and confidentiality, and all data was anonymized and stored securely in accordance with the Data Protection Act (1998). The female participants in the study were all assigned pseudonyms, and practitioner participants were identified according to their sector and assigned numbers.

The first stage of the recruitment process engaged with restorative justice practitioners from a range of sectors. The Anonymised for review's existing network was drawn on to contact organizations and practitioners across England and Wales deemed likely to have worked with female offender cases. In total, 10 interviews with purposively sampled practitioners who had experience with both male and female offender conferences were conducted, including perspectives from within the police (POL), the National Probation Service (PROB), the youth offending service (YOS), and within community settings (COMM).⁶ An even balance between the different criminal justice sections was aimed for, with each group containing both managerial and frontline perspectives.

The second stage of the recruitment process involved making contact with female offenders who had been through a restorative conference in a perpetrator capacity. Being aware of the failed attempts in previous research to recruit participants from this hard-to-reach group (Miles, 2013), a broad recruitment strategy was adopted. In total, around 75 organizations involved with restorative justice in England and Wales were contacted, along with around 60 women's centres. However, reflecting the challenging climate in the field as a whole, a fifth of the women's centres had gone into administration; some had lost their funding to work with women involved in criminal justice, some were too overwhelmed with workloads to engage, and most did not have either knowledge of, or contact avenues for, female offenders with

⁶ These abbreviations are used in the data presentation to identify which sample section different data is derived from.

restorative justice experience. A call for research participants was subsequently also advertised in a number of restorative justice forums and meetings.

In total, 11 interviews were conducted with women aged 15–60 years old.⁷ In line with evidenced patterns of female offending (Ministry of Justice, 2017), the majority of the women's offending related to non-violent, acquisitive offences, most frequently shoplifting, fraud or other forms of theft, though there were two instances of more serious offences. Reflecting the range of restorative justice interventions, with no uniform approach offered in England and Wales (CPS, 2017), the women interviewed undertook their conference at different stages of the criminal justice system (ranging from pre-sentence diversionary interventions to post-conviction conferences). Given the sample size, these women do not represent a 'typical' restorative justice experience, but a range of conference experiences across England and Wales.

Factors to consider for effective and ethical restorative practice with female offenders

In support of previous research (Miles, 2013), the study found clear evidence of an inconsistent approach to gender-aware practice in the restorative justice field. It has been argued by the current authors in a recent article (Osterman and Masson, in print) that there is demonstrable disagreement regarding practitioners' roles and responsibilities in the field in relation to gender-specificity in working approaches. However, the findings in this study clearly indicate that gender plays a role in the conference process, and that there are particular factors that need to be considered at each stage of the proceedings in order to allow for the full benefits of restorative justice to be reaped by female offenders. The findings suggest that these include ensuring non-discrimination based on offence type, detailed attention to complex needs in the preparation and delivery stage, consideration of how emotions of shame and guilt are managed throughout the conference process, and an awareness of balanced attendance. These issues are now discussed in turn.

⁷ As is common when conducting research with hard-to-reach populations, four additional interviews had been scheduled but potential participants either cancelled or failed to present for the interview. The women received a £10 high street voucher as a gesture of gratitude for their time and contributions.

Ensuring non-discrimination based on offence

Female and male offending patterns differ, with female crime statistics being dominated by acquisitive and non-violent offences (Ministry of Justice, 2017). This study found evidence that these gendered offence patterns might impact women's access to restorative justice, as there was considerable discretion and regional inconsistency in terms of prioritizing offence categories for restorative justice. Typically priority was given to offences with a clearly identifiable personal victim. Thus, the fact that female-dominated offence groups, such as shoplifting or fraud, may involve significantly fewer personal victims means that there may be fewer opportunities for women to participate in conferences. This study found clear evidence of this, with the majority of the restorative practitioners indicating a lower priority of shoplifting cases:

I wonder sometimes if, because . . . we have less personal victims for women offenders, whether we're actively thinking around that opportunity to offer it . . . Say you stole £5000 worth from Tesco's, that may not immediately trigger in my mind that that's what would be appropriate; you stole £5000 from your elderly neighbour [and straight-away I'm thinking restorative justice]. (PR 7: POL)

These priorities are reflective of some previous studies that suggest that restorative justice conferences are less effective with so-called 'victimless' crimes and most effective with violent offences (Strang, 2015). However, it is important to note that most of the existing literature is from male-focused samples, with limited consideration of how an individual's gender plays a role in these cases. The qualitative evidence from the women's experiences of restorative justice conferences linked to shoplifting offences in this study was indeed very positive. It was clear the women viewed the restorative justice conference as playing a highly meaningful role for them in terms of challenging their own narrative of shoplifting as a 'victimless' crime. Bethany⁸ explains:

It makes you think though really, you go in and take something, and there is a lot of people you know that it does affect like, like security, the money what

⁸ Pseudonyms have been assigned on an alphabetic system relating to the chronological order of the interviews. None of the pseudonyms have any association with the women's real names.

they put in and everything else, it does make you think, you don't think like that, you don't, you just think it's a big company they've got the money . . . but you think the number of people do that it does affect them, I do understand that now.

This was a common sentiment expressed by the women who had been through a restorative justice conference linked to shoplifting. Yet the data suggested that these types of offences were often not prioritized. Practitioners explained this partly related to the challenge of getting businesses engaged:

We tried, shop owners and small businesses, we tried that as well. Again, it would fall apart for different issues, it wasn't just one specific issue, but it was always time for them because it was their business and they're running their business and they don't have time for the meetings, pre-conference talks, you know. (PR 8: COMM)

One region in the sample had made shoplifting a priority and, through multiagency working, had successfully engaged with commercial premises in restorative interventions. In collaboration with the youth offending service, they brought young offenders together to speak to a representative from a retailer about the impact of their behaviour on the wider community. According to the practitioner interviewed, nobody who engaged in the scheme had reoffended, which mirrors previous successes with similar schemes (see for example McCulloch, 1996). This highlights that, delivered in a multiagency setting, restorative justice can be a potentially valuable mechanism for reducing recidivism in a prolific female offence category. Frontline practitioners are accordingly encouraged to give equal priority to shoplifting cases, as well as take an active role, in conjunction with other agencies, in the development of positive engagements with local commercial premises.

Preparation work: The role of complexity, training and partnership working

After considering all parties' willingness to participate, the presence of complex needs and/or level of vulnerability of the female participant must be assessed and considered early during the preparation stage. In line with existing evidence, the majority of the women interviewed in this research offended in the context of complex needs and circumstances, for example being in unstable housing (Hannah Moffat and Innocente, 2013); having high levels of mental ill-health (Baird, 2003; Belknap and

Holsinger, 2006); living with the consequences of trauma and abuse (Covington, 2012); and struggling with substance misuse problems (Malloch, 2003). There is also the need to consider the intersection between the status of 'offender' and 'victim' for women involved in the criminal justice system. Amelia's circumstances provide a clear example of this: a victim herself of burglary and survivor of domestic violence and rape, Amelia became pregnant as a result of sexual violence. She developed post-natal depression and subsequently had to have her child adopted. It was around this time that she committed her offence, which she described as out of character for her:

I didn't realize what I was doing, I wasn't in the right mind . . . I went stir crazy after I had [my son]. It was horrible, I wasn't the same person.

Most of the practitioners interviewed in this research were aware of the higher prevalence of additional layers of difficulties in the lives of the women they worked with. For example:

I think there's a complexity for women offenders in so far as I think that there are factors beyond the crime much more often than in a male offender type environment. And therefore actually, it's trying to unpick and to help them, support them with the things that are going on behind the scenes that are far more complex, probably, than perhaps in a man's world. (PR 7: POL)

It is important to note that these multifaceted life experiences are not necessarily present with all female perpetrators, nor are they exclusively contained to this gender alone. However, given the significantly higher risk of multiple needs and/or vulnerability, consistently identified in official data and other research, these factors should be given particular attention by practitioners when considering whether a woman is able to undertake such a potentially emotionally charged restorative conference. This does not mean that the woman will never be able to undertake a restorative intervention, but that it may be more challenging, and more time consuming, to get a female offender case to conference due to the range of issues that need attention before the woman reaches the point of 'readiness'. One practitioner described some of the additional hurdles in these cases as linked to the ability to prioritize:

The challenge is with women who've got complex needs . . . is that it's not a priority, because they are leading such challenging lives . . . For some of the women, within the chaos that they live every now and again they go: 'Actually

I could go and say sorry about that' . . . but actually they've got so many other things that they can't stick with that because something else comes in and trumps that particular desire. (PR 4: PROB)

Identifying and having an awareness of vulnerabilities in order to not exacerbate them is vital for ethical practice. However, in order to do so, there must be tools available to draw attention to such potential concerns. This study found evidence that such tools are lacking in sections of the field. For example, one practitioner admitted that they do not always risk assess cases for mental health, because 'we don't know how to, that's the problem' (PR 5: COMM). Indeed, there was a consensus that a standardized assessment tool would be helpful in terms of producing consistency in approaches across the field. It may be that a formal assessment of 'readiness' by a qualified mental health professional is necessary before proceeding with the restorative justice process. Bearing in mind the debate around risk technologies forming a part of neoliberal governance structures (Hannah-Moffat, 1999), with women's higher needs typically only being targeted if linked to 'risk' specifically in terms of reoffending (Hannah-Moffatt, 2004), these assessments are not designed to responsabilize or discipline female participants. Rather, they would specifically be designed and used as a guiding tool for practitioners, allowing the identification of complex factors, including those of a gendered nature that may need attention before a restorative conference process can be initiated. This would foster consistency across a diverse field to assess 'readiness' for a restorative process.

This highlighted lack of ability to identify and assess for complex needs may in some ways be expected, as none of the practitioners interviewed in this study had received any particular training on working with women in restorative justice. There were mixed responses when asked whether gender-specific training would be useful or not. Some practitioners rejected the need for this, arguing that their work is completely neutral:

It's the same . . . you'd attend to both of them, you wouldn't attend less because of the gender. (PR 4: PROB)

While acknowledging practitioners' standpoint on this, so-called 'gender neutral' services have been found to lessen the likelihood of meeting women's specific needs, including failing to acknowledge disproportionately high experiences of abuse and

disadvantage (Scott and McManus, 2016). That said, the majority of the practitioners in this research felt that tailoring services is required when working with women. This was something that was identified as already being in place in parts of the youth offending service.⁹

We've got particular packages of work that we work with, with girls in particular. We see that girls work in different ways to boys, so their relationship with the people they work with. So based on all of that you would want to suggest that yes there should be something different [in terms of training]. (PR 1: YOS)

A strategic recommendation from this research is that some general and/or introductory practitioner awareness training around women's complex and intersectional needs, including gendered factors and sensitivities, would be highly useful in order for restorative justice practitioners to identify potential issues and provide appropriate support.

However, the skillsets required for unpicking and treating complex needs and delivering restorative justice are likely to be rather different. Restorative justice workers should not be expected to fulfil both roles, but act as a 'catalyst for a referral' (PR 7: POL). This is where the role of signposting and partnership working is key, identifying when people with specialist skills are needed to support vulnerable female offenders. Several practitioners emphasized how specialist skills and partnership working are required in order to effectively deal with complex needs, as underlined by one practitioner working within the police:

It must be done in partnership . . . For the police to get it right they have to be working with people who are already doing it well, with the right skillsets. (PR 3: POL)

⁹ Recognizing that there may be specific areas of good practice in terms of gender-specific service delivery that can be learnt from the youth sector, it should be noted that there are significantly different resources available in the youth justice system, with, for example, multi-agency joined-up working being more common practice compared to the adult system (Marder, 2013).

Most practitioners identified partnership working as essential for effective restorative justice work; yet the general consensus was that this was not currently happening:

There are little pockets of restorative justice; it's so not joined up though at the moment. You know, the police are doing their bit, but that tends to be pre-sentence, and then you've got . . . a housing association . . . and they have their own sort of restorative justice team, so they're doing a little. And then there's me in probation . . . It seems like we're missing a trick! (PR 10: PROB)

Although there were some examples of good practice within the data, multiagency partnership working was generally very limited outside of the youth sector. A consequence of this integrated multi-agency work in the youth sector was that there were clear overlaps between restorative justice working and other work with the young person. This again highlights that adult restorative justice practice could draw valuable lessons about effective multi-agency working from the youth sector.

Introducing the process: The importance of relationship building and timing

If appropriate support through partnership working has been provided and it is felt that it would be ethical and suitable for a woman to meet her victim, her ability to engage in a restorative intervention may then be determined by how and when the process is introduced. Previously it has been argued by the current authors (Osterman and Masson, in print) that relationship building plays a 'particularly important role for effective working with female offenders', and that additional investment from a practitioner is more likely to result in a more positive and effective restorative experience. Communication emerged in the data as playing a significant role in fostering a supportive and trustworthy relationship with female offenders, including, for example, assuring a woman that restorative justice will not involve being cross-examined or interrogated:

Personally I think if there's people that can explain it to them . . . that they're not being told off and they're not being told they have to do it as part of their sentence, it is just something they might want to do . . . For women, [communication] is needed. For men it is less . . . So for me a female offender needs more attention. (PR 8: COMM)

As such, when thinking about increasing female participation in restorative justice, there may be value in taking into account relationship building, and considering how the concept of restorative conferencing is introduced and by whom. Although this may be time-consuming, the data indicates that this will ensure the women are more invested in the process and that there is a more positive process experience.

When the process is introduced is also deemed to be central in effective conferencing, and many of the practitioners interviewed stressed that timing was of crucial importance for successful case selection; a person needed to be 'ready'. Flexibility in terms of the timing was emphasized as important, ensuring that all parties are able to properly engage in the process:

When is the right time to approach somebody? It can be that I can approach someone immediately after sentence, and it might be fine . . . for someone else it might be the wrong time . . . or it could be as someone is starting to show some victim empathy for example, a willingness to try to change . . . to try to break that cycle of offending. Then you come in. (PR 9: COMM)

Some practitioners felt conferences should be carried out as soon as possible, as a lengthy period elapsing between conviction and conference may increase victim distress and frustration, as well as resulting in offenders being over-assessed until they 'switch off' (PR 7: YOS). However, others felt it was important to give the process time and 'not rush it' (PR 10: PROB), to ensure that each party had time to consider and discuss the opportunity with others. However, although it is important for women to be offered restorative justice at multiple stages, they should not be repeatedly bombarded with the idea by different organizations or people, as this may be off-putting.

For the women who were interviewed, there was wide variation in the length of time between the offence being committed and the conference occurring, ranging from two weeks to 11 years. In line with the practitioner responses, some women were happy with the time it took, as it provided an opportunity for them to reach the point of 'readiness', as exemplified by Magdalena:

When it was first raised I think it was agreed that we'd leave it for a couple of months, wasn't it, yeah [I wasn't ready]. It was very easy to keep putting it off, but it was always there in the back of my mind.

In contrast, others were frustrated at delays that dragged out anxieties and also possibly deterred victim participation. Laila, for example, felt that the benefits of the conference were significantly reduced due to the length of time that had elapsed since her offence, leaving her in a position where she had already struggled with anxiety and guilt for an extended period of time:

It was a long, it was 12 months more or less that I didn't have any contact with anybody, other than a police officer . . . I think perhaps in those early stages it might have been beneficial, because then I could have gone and spent those 12 months and the time I was in [prison], knowing that my colleagues didn't despise me, and it might have been more likely that [the person she felt most guilt towards] would have met me, 'cos it was raw, you know, it was fresh for her then . . . I think if it was early, presentence, it may have made more of a difference.

For Laila there was an additional pain of punishment linked to the length of time between offence and restorative conference. Echoing the findings from the practitioner data, flexibility was emphasized as an important factor in terms of getting the timing right. However, overall the data suggested that it might be beneficial for restorative justice to be offered at the earlier stages of the criminal justice process, when the offence is still 'fresh'. It is then essential, however, to allow for flexibility following this introduction, in terms of length of time in getting the person 'ready'.

Organization of the event

For the vast majority of the female participants, agreeing to undertake a conference was not a decision taken lightly; meeting their victim was a daunting task, which often brought about anxiety. It is suggested that if this is not dealt with carefully, the conference could result in additional pain. Therefore, in order to foster ethical practice adequate time needs to be spent organizing the conference in the most appropriate way. Several of the women spoke positively of well-organized conferences held in environments that were neutral for both them and the victim. Some pointed out the value of the event being well balanced, with regards to both the number of people in

the room supporting the offender and victim and each party having an opportunity to have their voice heard. As noted by Keira:

I got a chance to speak, then he got a chance to speak and there was no interruptions, no butting in. And it was just I spoke to him and he spoke directly to me . . . He was already aware of the issues I was having [through a letter]. Yeah it was organized really well, it was somewhere neutral, to both of us, and it was just, we were just literally sat in a circle . . . Yeah, it was done well.

Several of the women said the meeting had been well arranged to fit around their needs, such as child-care arrangements. This left them feeling positive, as their specific requirements as a caregiver had been prioritized, as noted by, for example, Holly: 'Everything just worked around me . . . I couldn't fault it.'

These examples demonstrate good practice in terms of organization of events, enabling effective and ethical restorative justice working with women. However, there were also some examples of very poor conference organization. A prime example of the issues around conference location and lack of proper mental health assessment was identified in Faye's case, where the event took place in a nonneutral space with very little consideration of her needs. Faye spoke rather erratically, but this segment highlights some of her experiences:

We basically ended up meeting at the Victim Support . . . it wasn't totally comfortable for me because I do get very severe anxiety . . . One of the restorative justice workers come out to meet me outside and was talking to me and said 'wait here because we don't know where the victim is at the moment', but I'd never met the victim . . . so it ended up we stood outside together . . . after that I went to the toilet and I couldn't come out of the toilet for quite a bit because I had serious anxiety, a serious panic attack . . . and then after that I don't like small rooms, they had a small room with no windows and we were basically touching legs.

This lack of organization could result in the conference being an overwhelmingly negative experience, causing harm to an already vulnerable woman. Moreover, the data suggests that there may be particular aspects within the organization of cases that involve individuals representing victims, such as shoplifting cases, which need special consideration. This research unearthed a concern regarding imbalance in the room; a concern that was exclusively identified in cases where indirect victims, such as

officials or store staff, represented the victim. In these cases there was commonly more than one representative attending, in addition to a police officer. One woman, India, felt bullied due to the higher number of people on the 'other' side, while another found it challenging, to the point of a form of interrogation: 'It was quite daunting as well, definitely yeah, it was like going for an interview with like a panel of people there.'

This imbalance is likely to have a negative effect on the conference and its outcomes, as it was suggested that it might make a female offender feel uncomfortable and disengage. Given the dominance of acquisitive crimes, such as shoplifting, being committed by women, imbalance in the room with more official representation, rather than a personal victim, is likely to be a gendered experience. As such, practitioners need to pay particular attention to how many people are in the room, and the appropriateness of that balance, for an effective and ethical conference.

Managing feelings of shame and guilt

The final theme to consider for ethical practice is how shame and guilt – which is known to have a disproportionate negative impact on female offenders (Alder, 2000; Gaarder and Hesselton, 2012; Miles, 2013) – play out in restorative conferences. It has been argued by Osterman and Masson (in print) that although there are concerns that conferencing may have a detrimental impact on mental health, some practitioners felt that restorative justice could provide an opportunity for complex and challenging emotions to be managed in a 'less destructive' way. In line with reintegrative shaming theory, when restorative processes successfully separates the deed from the person (Braithwaite, 1989), shame can be effectively managed within a conference. A core part of this involves allowing the woman to share the context of their offending, in a safe and supported manner, while listening to and processing the harmful consequences of her actions on her victim, and having a chance to seek forgiveness for those. To offer the woman support and encouragement throughout this process can go some way towards reducing the chances of her becoming overwhelmed with feelings of shame and guilt. Moreover, the practitioners can also actively support the woman to focus on other, more positive, identities that she holds, as research shows that offering

practical assistance to ex-offenders to narratively reconstruct their identity can be a helpful way for encouraging someone to move on (McNeill and Maruna, 2008).

However, the management of feelings of shame and guilt cannot be contained within a conference, and in order to foster ethical practice consideration of these feelings may be even more important post-conference. Despite a disagreement in the literature regarding the aims of restorative justice (Daly, 2015), nobody would argue that the objective is to negatively affect feelings of self-worth. Given the links between female offenders, low self-esteem and self-harm (Light et al., 2012), ethical and effective restorative practice can only be done when feelings of shame and guilt are properly considered following the completion of the conference.

Reiterating the arguments around the value of joined-up partnership working, it is suggested that this management task should not be the sole responsibility of the restorative worker, but rather, in an ideal scenario, of the multiple agencies supporting the woman to move in a positive direction. Osterman and Masson (in print) discuss the importance of signposting for follow-up support, and it is recommended that this process should be standardized, to ensure that all female offenders are offered appropriate post-conference support from a pre-determined agency or person. This again needs to be designed around the individual woman, her needs and her expectations. More than just monitoring outcome agreements, follow-up practices should include a check-up of the woman's emotional wellbeing, including assessing levels of guilt and shame and associated impacts on mental health. In accordance with the *Anonymised for review's* guidance, continuity in case handling is highly important to the follow-up process. If any issues arise, appropriate signposting to support services should be made in order to reduce the risk of challenging emotions leading to self-destructive behaviour. This support is likely to best be delivered within a gender-specific service setting, such as in women's centres, where there is professional specialized expertise and experience.

Summary of findings and recommendations

Feminists working in the criminological field have continued to push for giving women a voice, and due to the establishment of new perspectives and theories, few

would now dispute that crime and criminal justice are gendered phenomena (Cook, 2006). However, little research has explored how gender impacts on restorative justice processes, which – if left unresearched – may result in unintended additional pains of punishment and negative consequences for female offenders. Drawing on qualitative data with practitioners and women across England and Wales, this article has explored specific factors that can foster effective and ethical restorative justice conferencing with women who have committed an offence. As with all small-scale qualitative research, there are limitations in terms of empirical generalizations. However, being such a unique study within unexplored research terrain, it makes important contributions to our understanding of female offender participation in restorative justice conferences. While the findings should be interpreted as exploratory, they do indicate a clear relevance for the consideration of gender-specific factors when delivering restorative justice.

Firstly, to enable parity in service regarding access for different offence groups, practitioners must think critically about priorities in case selection. Given the high percentage of acquisitive offences committed by female offenders, practitioners should be encouraged to consider innovative ways to overcome challenges in engagement with commercial practices. Both the practitioner and female offender interviews highlighted how restorative justice can be a positive experience for these types of offence categories, and can play a valuable role in challenging attitudes held towards such offences. Therefore the strategic priority of more serious interpersonal crime could be questioned, particularly in relation to women.

Thorough preparation work has been identified as essential to a successful conference, and consideration of complex needs must be incorporated into standard working approaches. Practitioners should have an awareness of the higher likelihood of such needs, including mental health issues and the presence of previous or current abusive/coercive relationships, in female offender cases. Special care should be taken to consider how these factors might affect restorative justice processes. To aid consistency across the field in this area, a core recommendation emerging from this research is the development of standardized assessment tools, which should explore

mental health, coercive relationships and other gender-based factors, as well as signpost to organizations when appropriate.

Moreover, it is suggested that effective and ethical practice with female offenders engaging in restorative justice could be encouraged through appropriate training of practitioners in the area of gender and complex needs. Echoing findings from previous studies (Miles, 2013), marked inconsistencies in terms of gender and working approaches were detected across the field. To encourage more consistency, basic awareness of gendered aspects of offending would be a worthwhile addition to restorative justice training. Such training would not be all-encompassing or in-depth, but – given the now integrated role that the gender-aware agenda has in wider criminal justice policy and practice – a basic awareness raising exercise for restorative justice practitioners would be hugely beneficial to help create a shared framework of practice across different criminal justice arenas.

Although several practitioners highlighted the value of acquiring skills for *identifying* complex needs, *addressing* such needs rests outside of restorative justice practitioners' remit. This should be delivered through effective partnership working with organizations that have suitable skills and expertise. Good signposting practices were identified as critical in this area, with many practitioners feeling that this was especially applicable, again due to heightened complexity and needs, when working with female offenders. Importantly, this may need to be done prior to a restorative conference, in order to allow for women to begin to address other challenging or chaotic factors that otherwise may disrupt or disadvantage the restorative justice process. Although most practitioners identified partnership working as essential for effective restorative justice work, the general consensus was that this was not currently happening. Good multi-agency working was predominantly identified in the youth sector, and it is suggested that the adult system, with recognition of the inherent differences between the systems, could learn lessons from the youth justice field. Furthermore, practitioners should be aware of the likely higher importance of relationship building when working with women who have committed an offence, and adapt their working approach to allow for this. These cases may require additional preparation time, including dealing with emotional anguish in the build-

up to the conference. Steps should be taken to reduce the risk of severe anxiety before and during the conference, which would be best delivered through effective partnerships with gender-specific support services.

Another highlighted aspect of effective work with women is the timing of the conference. The data indicated that it might be beneficial for restorative justice to be offered at the earlier stages of the criminal justice process, when the offence is still 'fresh' for all parties, to help tackle guilt and manage challenging emotions. It is essential, however, to allow for flexibility in the length of time allowed for getting the person 'ready'. All agencies supporting a woman should be aware of whether restorative justice has been introduced, and ensure they remain flexible with regards to when a conference is undertaken.

Quality organization of the conference is also of great importance. The women experienced the conference as more positive and meaningful when they felt their needs had been taken into consideration, for example childcare arrangements, a suitable location and room, and a good balance between the parties. The issue of overrepresentation of the victim's party was exclusively identified in cases where indirect victims, such as officials or store staff, represented the harmed side. Given the dominance of non-personal acquisitive crimes, such as shoplifting, with female offenders, this imbalance may be a gendered experience, and is therefore even more important for practitioners to consider when working with female cases. Lastly, given the known weight of shame and guilt on female offenders, it is important for practitioners to consider how these feelings are managed both during and post-conference. Again, the value of partnership working is significant, ensuring that appropriate support is offered, situated in a professional context that is used to working with women moving out of the criminal justice system. It is suggested that the post-conference work would be best carried out by organizations with in-depth knowledge and experience of providing gender-specific support services. Therefore developing partnerships with women's centres may be especially valuable for the ethical and effective delivery of restorative justice with women.

To conclude, practitioners should be mindful of the importance of upholding good practice in terms of ensuring that both female and male offenders are offered an

equitable service. However, it is known that 'equal treatment' may not result in parity of service or outcome. An awareness and understanding of gendered factors is therefore essential in order to deliver ethical and effective restorative justice with female offenders. This article does not present an all-encompassing guide for restorative justice practice with women; however, if practitioners are able to carefully consider and implement the issues raised, it is suggested that significant progress will have been made towards achieving a much needed gender-aware restorative practice.

Author's note

Isla Masson is affiliated to University of Leicester since August 2017.

Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

References

- Alder C (2000) Young women offenders and the challenge for restorative justice. In: Strang Hand Braithwaite J (eds) *Restorative Justice: Philosophy to Practice*. Vermont: Ashgate, 105–119.
- Baird V (2003) Commission on Women and the Criminal Justice System. *Current Issues in Criminal Justice* 22(2): 30–31.
- Baldry E (2010–11) Women in transition: From prison to *Current Issues in Criminal Justice* 22(2): 253–268.
- Belknap J and Holsinger K (2006) The gendered nature of risk factors for delinquency. *Feminist Criminology* 1(1): 48–71.
- Braithwaite J (1989) *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.
- Cobbina JE (2010) Reintegration success and failure: Factors impacting reintegration among incarcerated and formerly incarcerated women. *Journal of Offender Rehabilitation* 49(3): 210–232.
- Cook K (2006) Doing difference and accountability in restorative justice conferences. *Theoretical Criminology* 10(1): 107–124.
- Corston J (2007) *The Corston Report: A Review of Women with Particular Vulnerabilities in the Criminal Justice System*. London: Home Office.
- Covington SS (2012) Trauma matters: Creating services for women. Presented at the 'Conference on Women, Crime and Criminal Justice: Diversion, Desistance and Dignity', University of Cambridge, 10–12 January.
- CPS (2017) Restorative justice. Available at: http://www.cps.gov.uk/legal/p_to_r/

restorative_justice/#an02 (accessed 8 February 2017).

Daly K (2008) Girls, peer violence, and restorative justice. *Australia and New Zealand Journal of Criminology* 41(1): 109–137.

Daly K (2015) What is restorative justice? Fresh answers to a vexed question. *Victims and Offenders: An International Journal of Evidence-based Research, Policy, and Practice* 11(1): 1–21.

Dehart D (2008) Pathways to prison: Impact of victimization in the lives of incarcerated women. *Violence Against Women* 14(12): 1362–1381.

Eaton M (1993) *Women After Prison*. Buckingham: Open University Press.

Elis L (2005) Restorative justice programs, gender, and recidivism. *Public Organization Review* 5(4): 375–389.

Equality Act, c.15 U.K. (2010).

Gaarder E and Hesselton D (2012) Connecting restorative justice with gender-responsive programming. *Contemporary Justice Review* 15(3): 239–264.

Gelsthorpe L, Sharpe G and Roberts J (2007) *Provision for Women Offenders in the Community*. London: A Fawcett Society Research Report.

Giordano PC, Cernkovich SA and Rudolph JL (2002) Gender, crime and desistance: Toward a theory of cognitive transformation. *American Journal of Sociology* 107(4): 990–1064.

Hannah-Moffat K (1999) Moral agent or actuarial subject: Risk and Canadian women's imprisonment. *Theoretical Criminology* 3(1): 71–94.

Hannah-Moffat K (2004) Criminogenic need and the transformative risk subject: Hybridizations of risk/need in penalty. *Punishment and Society* 7(1): 29–51.

Hannah-Moffat K and Innocente N (2013) To thrive or simply survive: Parole and the post-release needs of Canadian women exiting prison. In: Carlton B and Segrave M (eds) *Women Exiting Prison: Critical Essays on Gender, Post-Release Support and Survival*. New York: Routledge, 77–97.

Hudson B (2002) Gender issues in penal policy and penal theory. In: Carlen P (ed.) *Women and Punishment: The Struggle for Justice*. Devon: Willan Publishing, 21–46.

ICPR (2016) Report of a Mapping Exercise of Restorative Justice Provision in England & Wales for the Restorative Justice Council. London: Birkbeck, University of London.

Leverentz AM (2006) The love of a good man? Romantic relationships as a source of support or hindrance for female ex-offenders. *Journal of Research in Crime and Delinquency* 43(4): 459–488.

Light M, Grant E and Hopkins K (2012) *Gender Differences in Substance Misuse and Mental Health amongst Prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) Longitudinal Cohort Study of Prisoners*. London: Home Office.

Malloch MS (2003) Women of substance: Drug using women and criminal justice. *Criminal Justice Matters* 53(1): 24–25.

Marder I (2013) *Restorative Justice for Young Adults: Factoring in Maturity and Facilitating Desistance*. London: A Barrow Cadbury Trust, T2A and Restorative Justice Council Report.

Masson I (forthcoming) *Incarcerating Motherhood: The Enduring Harms of First Short Periods of Imprisonment on Mothers*. Oxford: Routledge.

McCulloch H (1996) *Shop Theft: Improving the Police Response (Crime Detection and Prevention Series Paper 76)*. London: Home Office.

McIvor G, Murray C and Jamieson J (2004) Desistance from crime: Is it different for women and girls? In: Maruna S and Immarigeon R (eds) *After Crime and Punishment: Pathways to Offender Reintegration*. Cullompton: Willan Publishing, 181–200.

McNeill F and Maruna S (2008) Giving up and giving back: Desistance, generativity and social work with offenders. In: McIvor G and Raynor P (eds) *Developments in Social Work with Offenders*. London: Jessica Kingsley, 224–339.

Miles R (2013) *Restorative Justice: Female offenders in Restorative Justice Conferences*.

London: The Griffin Society.

Ministry of Justice (2012) *Compendium of Reoffending Statistics and Analysis: Ministry of Justice Statistics Bulletin*. London: Ministry of Justice.

Ministry of Justice (2017) *Offender Management Statistics Bulletin, England and Wales Quarterly July to September 2016*. London: Ministry of Justice.

Offender Rehabilitation Act, c. 11. U.K. (2014).

Osterman L and Masson I (in print) Restorative justice with female offenders: the neglected role of gender in restorative conferencing. *Feminist Criminology*.

Restorative Justice Council (2016) *Criminal justice*. Available at:

<https://restorativejustice.org.uk/criminal-justice> (accessed 16 February 2017).

Richards L (2009) *Handling Qualitative Data: A Practical Guide*. London: SAGE.

Rodriguez N (2005) Restorative justice, communities and delinquency: Whom do we reintegrate? *Criminology and Public Policy* 4(1): 103–130.

Rumgay J (2004) *When Victims Become Offenders: In Search of Coherence in Policy and Practice*. London: Fawcett Society and Nuffield Foundation Conference.

Scott S and McManus S (2016) *Hidden Hurt: Violence, Abuse and Disadvantage in the Lives of Women (Executive Summary)*. London: DMSS Research for AGENDA.

Segrave Mand Carlton B (2013) Introduction: Gendered transcarceral realities. In: Carlton B and Segrave M (eds) *Women Exiting Prison: Critical Essays on Gender, Post-Release Support and Survival*. New York: Routledge, 1–13.

Shapland J, Atkinson A, Atkinson H, Chapman B, Dignan J, Howes M, Johnstone J, Robinson

G and Sorsby A (2007) *Restorative Justice: The Views of Victims (The Third Report from the Evaluation of Three Schemes. Ministry of Justice Research Series 3/07)*. London: Ministry of Justice.

Strang H (2015) Research evidence for restorative justice: 10 things we know. Paper presented at: 'Restorative Justice – a National Event for the Judiciary', London.

Strang H, Sherman LW, Mayo-Wilson E, Wood D and Ariel B (2013) Restorative Justice Conferencing (RJC) using face-to-face meetings of offenders and victims: Effects on offender recidivism and victim satisfaction: A systematic review. *Campbell Systematic Reviews* 2013: 12.

Verrecchia PJ (2009) Female delinquents and restorative justice. *Women and Criminal Justice* 19(1): 80–93.

Worrall A and Gelsthorpe L (2009) 'What works' with women offenders: The past 30 years. *Probation Journal* 56(4): 329–345.