

# scottish justice matters

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# RESTORATIVE JUSTICE

# Is Restorative Justice languishing on the margins in Scotland?

**Kenny MacAskill**

**RESTORATIVE JUSTICE** is something that every Justice Secretary has supported. I did and both my successor and my predecessors likewise. Why wouldn't we? The practice makes sense, is shown to work and other than criticism from a few zealots, is broadly supported by the public; even if it's arguably little understood by them.

However, whilst warm words and interest is shown, little in the way of practical action follows. Neither I nor anyone in the post was insincere. The support is genuine and the failure to take action isn't a deliberate choice. It is though, a natural consequence of it not being made a Ministerial priority.

The officials dealing with it are equally honest in their commitment to it, but they're few and the budget is limited. Consequently, as other issues are addressed or crises arise, it falls by the wayside or is left for a later date when time and resources allow and as something for others to address in the interim.

My own recollections from office confirm that. I was genuinely supportive having been both persuaded and educated by academics and practitioners. Visits to see it in action were arranged and briefings on its possibilities provided. My commitment to it was given and I left it at that. However, to my eternal regret I didn't make it a key priority as other issues in sentencing and offending took priority. Accordingly, my warm words were echoed by sympathetic noises from officials. But, unlike priority areas, resources both staff and financial didn't follow.

In the Justice Department it was mentioned in the passing, though spoken of positively. Good work by the police or its use in particular localities fed back. However, as there wasn't a clear Ministerial priority it languished on the margins.

My experience with civil servants is that they are outstanding in delivery when given clear direction but, as in other walks of life, they are under pressure and follow priorities. Unless something is made a clear priority, it will be supported but not delivered as it can be or should be. I've no doubt other Justice Secretaries could tell a similar tale.

So, that needs to change, if restorative justice is to be delivered as it can and must be, it needs to be made a key Ministerial priority where officials realise it is a core policy. Otherwise it will continue in pockets dealt with ably by individuals or organisations, whilst remaining out with the mainstream and on the margins.

There are many challenges in the portfolio for the Justice Secretary, now as ever. However, this is the time to ensure that restorative justice is prioritised and receives the finance and

resourcing that is needed. There's the need to reduce the use of imprisonment which requires both practical actions and a cultural change in addressing offending amongst wider society. There's also structural change happening with Community Justice Scotland, which provides the framework for a national service. Those factors make this the optimum time to prioritise RJ.

A reduction in the use of imprisonment will not occur by accident. It needs to be designed. Both an increase in the period of presumption against its imposition and a restriction on the ability of the judiciary to impose it, are necessary. Equally, though, there requires to be both additional sentencing options, as well as a reduction in those appearing for sentencing. At present restorative justice is seen as an alternative to prosecution and mostly for very low tariff offences. That needs to change with both greater use as a diversionary measure but also the ability for the courts, as well as police and prosecutors to utilise it as a sentencing option.

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It won't be quick or easy as both its learning and practical implementation will take time. Difficulties and bad news stories will happen given the clientele; political courage will be required. Critical stakeholders whether the Judiciary and the Judicial Institute need brought on board along with police, prosecutors and criminal justice social work. The establishment of Community Justice Scotland allows for that focus and direction.

There's a lot of Government credibility riding on reducing the use of imprisonment, as well as financial drivers forcing it. Changing public culture from retribution to rehabilitation, is part of the solution. Rather than defending charges of reducing punishments, it's a chance to promote restoration and restitution.

Getting prison numbers down and reducing reoffending is a priority for the Government. Restorative justice isn't marginal but critical to that. That's why it must become a Ministerial priority.

**Kenny MacAskill** was Justice Secretary, 2007-2014.

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**Course leader:**

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(University of Ulster; Chair, European Forum for Restorative Justice).

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Martina Jordan Restorative Practitioner & Trainer

## PUBLIC DIALOGUES ON RESTORATIVE JUSTICE



20 April 2017	Edinburgh	RJ and desistance
15 June 2017	Glasgow	RJ and homicide
October (tbc)	Day conferences	

Further events to be announced.

[www.scottishinsight.ac.uk/Programmes/Learningfromotherplaces/RestorativeJustice.aspx](http://www.scottishinsight.ac.uk/Programmes/Learningfromotherplaces/RestorativeJustice.aspx)

To join the Restorative Justice Forum (Scotland) or be added to the mailing list, contact [rsuszko@sacro.org.uk](mailto:rsuszko@sacro.org.uk)

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