

Restorative Justice

**Steps the Federal Government must take to
improve access to restorative justice for
people who have experienced sexual violence**

November 2025

Acknowledgement of Country

Community Legal Centres Australia recognises that the land we work, live, and learn on is unceded Aboriginal land. Our office stands on Gadigal Land. We acknowledge Elders, both past and present. We acknowledge the First Nations workers in our sector across a great many Aboriginal lands on this continent and its surrounding islands, and we thank them for their generosity and persistence in supporting our sector to always be on a journey of learning and growth.



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1. Introduction

People who have experienced sexual violence should have access to a range of different pathways to justice. The criminal legal system should better support victim-survivors to seek accountability without being retraumatised. People who don't want to report sexual violence to the police should still have access to alternative pathways to seek accountability, justice, and healing.

According to the Australian Institute of Health and Welfare (2023), fewer than 8% of people who experience sexual assault report to the police. The main reasons people do report to police are the desires to prevent future harm and to get the person responsible to understand the impact of their actions. However, police don't always lay charges. In other cases, police lay charges, but the prosecution decides there is not enough merit or evidence. For these reasons and more, many victims-survivors who report sexual assault to police don't see their cases progress to court.

For victims-survivors whose cases go to court, the adversarial process can be re-traumatising. In NSW, only 7% of sexual assaults reported to the police result in a guilty verdict. Between low reporting, high attrition and low conviction rates, fewer than 1% of sexual assaults result in a conviction in the criminal legal system.

Some victims-survivors who want a criminal conviction don't report to police because they're concerned the criminal legal process won't result in a conviction, and they will be re-traumatised in the process. Others don't want to pursue a criminal legal pathway because 'justice' means something different to them. But for many victims-survivors who don't want to engage with the criminal legal system, there are few alternative justice pathways available.

The Australian Law Reform Commission's (ALRC) 2025 inquiry into justice system responses to sexual assault highlighted that, 'people who have experienced sexual violence have diverse justice needs. They may view access to 'justice' as something different from access to the criminal justice pathway,' and that 'having a range of justice pathways that can meet these different needs provides greater opportunity for people who have experienced sexual violence to access justice.'

Restorative justice is a trauma-informed and supported process in which a person who has caused harm has to engage deeply with their actions. It can include coming together with the person they have harmed (often with one or both parties' family members or friends) and professional workers to identify ways to take accountability and repair harm. Crucially, the victim-survivor can voice the outcomes they want, and what accountability and repair look like to them. It's a process that allows victim-survivors to make clear what behaviour was not okay and *why* it was unacceptable. It encourages people who have caused harm to evaluate their own behaviours and motivations, identify ways to make positive changes, and connect with ongoing supports and services.

Restorative justice approaches have been around for decades, but their availability has been extremely limited due to piecemeal funding and strict eligibility requirements. For example,

most programs require a criminal conviction first, which excludes victims-survivors who don't want to engage with the police, or for whom the criminal legal process doesn't result in a conviction.

Restorative justice avenues must be far more widely available for victims-survivors of sexual assault. People who have been harmed should have consistent access to restorative justice pathways regardless of where they live, and whether they report the assault to the police.

Some key challenges that the Federal Government has a responsibility to help overcome to ensure people who have experienced sexual violence can access restorative justice are:

- Inconsistent access to restorative justice for victims and survivors, including based on where they live, their demographics, their financial situation, and their willingness to engage with the criminal legal system.
- Confusion and lack of awareness in the community, including among legal system and victim support professionals, about restorative justice – that it exists, what it is, for whom it is available, what it offers to people who have been harmed, how it interacts with other justice-making processes, and more.
- Under-investment in restorative justice as a justice-making approach, including under-investment in the additional wrap-around supports that people participating in restorative justice need to participate in the process safely and to get the most benefit.

In this paper we set out some of the actions the Federal Government should take to support access to restorative justice, including:

- **Restorative justice legislation:** Consult and develop nationally consistent principles for restorative justice to inform the introduction or amendment of restorative justice legislation in all jurisdictions.
- **Restorative justice guidelines:** Resource independent expert organisations that are already successfully delivering community-based restorative justice processes to consult and develop national guidelines for the delivery of restorative justice.
- **Resourcing:** Provide resourcing to support best-practice, community-based restorative justice, including for:
 - Community-based restorative justice providers to deliver restorative justice
 - Wrap-around support to ensure equitable, safe access to restorative justice for people who have experienced harm, regardless of income
 - Mental health, legal, behaviour change and other therapeutic programs for people who have caused harm.
- **Referral pathways:** Ensure strong referral pathways to restorative justice from professionals and service providers that may be points of disclosure of sexual violence, from criminal legal authorities, and ensure accessible self-referral pathways.

2. Summary of recommendations

Recommendation 1

Take a leadership role in developing nationally consistent key principles to support the development or amendment of legislation in every jurisdiction to provide a strong framework for restorative justice and ensure that people who have experienced sexual violence are not disadvantaged in their experience of accessing justice based on where they live.

Develop these principles in consultation with state and territory governments, victims and survivors of sexual violence and the organisations that represent them, the Aboriginal community-controlled sector, and organisations representing groups of people who face additional justice barriers or who are overrepresented in sexual violence statistics.

Recommendation 2

Resource independent expert organisations in restorative justice that are already successfully delivering community-based restorative justice processes to consult and develop national guidelines for restorative justice delivery.

Recommendation 3

Fund the establishment of a designated body or bodies to oversee restorative justice.

Recommendation 4

Provide funding for community-based restorative justice providers embedded in communities across the country.

Recommendation 5

Resource the designated restorative justice body and restorative justice providers to:

- *Create and distribute informative materials about restorative justice for professionals whose roles mean they may be a point of disclosure of sexual violence*
- *Provide education and training on restorative justice to workers who may be points of disclosure of sexual violence.*

Recommendation 6

Work with relevant national accrediting professional bodies to ensure that professionals including psychologists, clinical social workers, health professionals, educators, lawyers and other relevant workers can access Continuing Professional Development points, or other similar incentives, for participating in training on restorative justice.

Recommendation 7

Resource the designated restorative justice body to develop a public awareness campaign about restorative justice, including information in accessible formats and many languages.

Recommendation 8

Resource the designated restorative justice body and restorative justice providers to develop community education and community legal education on restorative justice, with priority focus on reaching groups and communities that may mistrust or fear the criminal legal system, and the demographics that experience higher rates of sexual violence.

Recommendation 9

Adequately resource support services so that all people who have experienced harm and are seeking restorative justice can access free wrap-around support to ensure equitable, safe access to restorative justice regardless of income.

Recommendation 10

Adequately resource mental health, legal, behaviour change and other therapeutic programs for people who have caused harm.

3. Legislation to support access to restorative justice

Each jurisdiction will need to amend its own laws and practices to enshrine restorative justice approaches alongside (or as an alternative to) the criminal legal process for all offences.¹ There should be key principles to support the development (or amendment) of legislation in every jurisdiction to provide a strong framework for restorative justice, and to ensure that people who have experienced sexual violence are not disadvantaged in their experience of accessing justice based on where they live.

The Federal Government should take a leadership role in developing these key principles alongside state and territory governments, the Aboriginal community-controlled sector, victims and survivors of sexual violence and the organisations that represent them, and organisations representing groups of people who face additional justice barriers or who are overrepresented in sexual violence statistics.

The following are some of the principles that should underpin a legislated approach to restorative justice to help make restorative justice available to all people who have experienced sexual violence, including those who do not engage with police.²

3.1 Empowering people who have experienced harm

A key legislated aim should be empowering people who have experienced harm. Criminal legal approaches often focus on the state, the process itself, the interests of police and prosecutors, and on the motivations, punishment or rehabilitation of person who caused harm. Restorative justice processes should centre the person who has experienced harm and their own unique justice needs.

3.2 Flexibility

Legislation should not drive overly prescriptive restorative justice processes. Prescriptive processes may not centre the unique needs of a person who has been harmed. There must be room for a degree of creativity. Legislation should allow for restorative justice facilitators to develop flexible processes based on the needs and wishes of the person who has been harmed and the specifics of the case.

¹Restorative justice should be available for all offences, in all jurisdictions. This includes the Commonwealth jurisdiction – the Commonwealth Government should adopt restorative justice legislation for Commonwealth Criminal Code offences. However, the principle that restorative justice should be available for all offences should not delay the implementation of restorative justice for sexual violence. People who have experienced sexual violence should be able to access restorative justice even where governments are not ready to implement it for all offences, which may mean jurisdictions implement standalone legislation for restorative justice for sexual offences.

² There are further principles set out in the Australian Law Reform Commission Victorian Law Reform Commission reports into justice responses to sexual violence. Submissions from organisations in our membership to these and other inquiries have also outlined principles, e.g. the Victorian Aboriginal Legal Service submission to the ALRC inquiry.

Flexibility includes in venues for restorative justice. There should be a variety of options available, including face-to-face conferences, through letter-writing, via phone calls or online meetings, and more, from which people can choose. People who have experienced sexual violence should not be disadvantaged based on where they live. People living in regional, rural and remote communities should have equal access to face-to-face restorative justice processes, and digital solutions should not be considered an equal alternative for people who are seeking face-to-face restorative justice.

3.3 Voluntary participation

Both parties must opt in and be free to discontinue at any time.

3.4 Confidentiality

Problems around confidentiality are a key challenge in integrating restorative justice within existing criminal legal processes. The real or perceived risk that things said or done in restorative justice processes will be used as evidence in court is a significant barrier to uptake and effective participation in restorative justice.

Restorative justice processes require openness and honesty in communication and may be less effective – or ineffective – if parties involved are concerned about the impact of their conversations on legal proceedings. In our experience, a lack of confidentiality protected by law is a significant barrier in access to restorative justice for people who are concurrently pursuing criminal or civil legal pathways or wish to do so in future, and for those who have no interest in pursuing a criminal or civil legal pathway.

A lack of confidentiality protected by law can be a deterrent for both the person harmed and the person who caused the harm. People who have been harmed might be worried that being honest about their substance use, activity with previous or current partners, or mental health might be raised in any concurrent or future criminal or civil legal proceedings to discredit them. People who have caused harm may be disincentivised from clearly expressing remorse and accountability for the harm if this may be used as evidence in court – or may not engage in the process at all.

In cases where a person who has been harmed has no intention to pursue a criminal or civil legal avenue whatsoever and only seeks restorative justice, the fact that confidentiality cannot be guaranteed may mean the person who caused harm declines to participate because they are concerned about the potential that anything they say may be used to bring criminal charges. In these cases, the only avenue the victim wants to use to seek justice – restorative justice – then becomes unviable.

There should be legislated safeguards to ensure the independence of restorative justice as a process, and that it can be used to its best potential – this includes confidentiality. Legislation must ensure that what is said or done during restorative justice processes cannot be used as evidence in criminal and civil proceedings. This should extend to all people involved in the

restorative justice process, including support people. It should not be possible to subpoena any documentation from a restorative justice process for use in criminal or civil proceedings. All parties must have certainty as to this confidentiality. This would help create conditions for all participants to fully participate in the restorative justice.

Where limits to confidentiality are required (e.g. if a person discloses a plan to seriously harm themselves or another person), these limits should be clearly set out in the legislation so that people are not left uncertain and so all parties can make informed decisions as to their participation.

3.5 Impact on sentencing

Legislation should be clear on if and how participation in restorative justice will impact sentencing in any concurrent or future criminal proceedings.

Restorative justice processes can sometimes have unsatisfactory outcomes, including no agreement being reached, or one or both parties withdrawing from the process early. Participation in a restorative justice process that has an unsatisfactory outcome should not be used against a person in sentencing. Implying that agreeing to participate in restorative justice could lead to a harsher sentence for the person who caused harm than declining to participate at all, would act as a serious deterrent to participation. Many people would not take the risk, and many lawyers and other support people may advise against participation. This would deny justice to people who have been harmed who wish to access restorative justice.

Participation in a successful restorative justice process may be considered in sentencing. Participation by people who have caused harm in restorative justice can contribute to their rehabilitation. Rehabilitation, accountability and changes to the behaviour of a person who has caused harm can contribute to community safety and are often desired outcomes on the part of a person who has been harmed. People who have caused harm should be encouraged to participate in restorative justice, where the person who has been harmed wants this form of justice. Where a victim-survivor pursues both a restorative justice and a criminal legal process and the restorative justice process has been successful, it should be open to the court to take this into account during sentencing.

3.6 Clarity about the interaction between restorative justice and criminal legal processes

Legislation should support access to restorative justice at any stage of criminal legal proceedings, including:

- Before reporting to police, where the person harmed wants to retain the option of reporting to police in future and for the engagement in restorative justice to have no effect on the person's ability to later pursue a criminal legal approach.
- After reporting to police, when the case will not be proceeding.

- During criminal legal proceedings, as part of a referral to a diversionary program that provides for a restorative justice process.
- During criminal legal proceedings, pre-sentencing.
- Post-sentencing, while the person who has caused harm is in prison or on parole.
- Post-sentencing and following the conclusion of imprisonment, parole or another sentence.

Legislation should support access to restorative justice where no police report has been made and the person who has been harmed has no intention of reporting to police. This includes for historic offences, and there should be no time limit on access to restorative justice.

3.7 Obligations for justice system agencies to provide information about restorative justice

Legislation should create a positive obligation on justice system agencies to inform people who have reported sexual violence about restorative justice. In the UK, victims have the right, by law, to be provided with information about restorative justice when reporting a crime.

Police, prosecutors, courts, legal assistance providers and victim support services should have consistent and comprehensive information to provide to people about what restorative justice is, whether it is available, and its interaction with other justice processes. There should be a positive obligation for justice system agencies to inform people who have experienced sexual violence about restorative justice, so that all people who experience this violence can make informed choices about the types of justice they would like to pursue. This will increase the effective use of restorative justice to address the identified needs of people who have experienced harm.

For people whose criminal legal cases do not proceed who have not engaged in restorative justice, there should be an offer of a warm referral to restorative justice.

Recommendation 1:

Take a leadership role in developing nationally consistent key principles to support the development or amendment of legislation in every jurisdiction to provide a strong framework for restorative justice and ensure that people who have experienced sexual violence are not disadvantaged in their experience of accessing justice based on where they live.

Develop principles in consultation with state and territory governments, victims and survivors of sexual violence and the organisations that represent them, the Aboriginal community-controlled sector, and organisations representing groups of people who face additional justice barriers or who are overrepresented in sexual violence statistics.

4. National guidelines for restorative justice delivery

The Federal Government should resource the development of national guidelines for the delivery of restorative justice processes, including training, accreditation and monitoring guidelines for restorative justice facilitators. This is critical to ensuring high quality restorative justice options are available to people who have experienced harm, and that there is consistent, equal access to victims and survivors no matter which jurisdiction they live in. These guidelines can then be used by restorative justice facilitators to design and deliver the restorative justice processes their communities need.

Development should be led by independent organisations with expertise in restorative justice and who are already delivering restorative justice processes, with significant input from groups of people that commonly experience justice barriers or are overrepresented in sexual violence statistics. This includes:

- First Nations people
- People with Disability
- Older women
- LGBTIQ+ people
- Women from migrant backgrounds
- People from cultural and religious minority groups
- People living in regional and remote communities
- People with lived experience of sexual violence
- Specialist services that work with people who have experienced sexual violence

Guidelines can include things like:

- **Cultural safety.** Ensuring restorative justice processes acknowledge and are responsive to intergenerational trauma, racism and dispossession, and the complexities of sexual violence experienced by First Nations people.
- **Accessibility and appropriateness of restorative justice processes.** Restorative justice must be appropriate and accessible for both the person who has been harmed, and the person who has caused harm. An important principle of restorative justice is that it is consent-based and opt-in. This means processes must be appropriate for both parties. Guidelines can set out best practices for facilitators developing and delivering restorative justice processes that are accessible and appropriate for different demographics of people, like people with intellectual disabilities, LGBTIQ+ people, older people, and more.
- **Balancing robust processes with flexibility.** Guidelines should ensure that the restorative justice processes are high-quality, safe, and meet certain standards, while avoiding being overly prescriptive, and allowing for person-specific and community-specific processes.

- **Risk assessment.** Guidelines should provide for risk assessment of participants before proceeding in restorative justice to ensure restorative justice will be suitable and that proper safeguards are in place, including from potential systems abuse. They should also provide for ongoing safety assessment throughout the process.
- **Accreditation of restorative justice facilitators.** Setting out the training and other requirements for a person to become and stay accredited as a restorative justice facilitator.
- **Requirements of restorative justice providers.** Guidelines should be clear about what is required for an organisation to become a provider of restorative justice, including strong protections from exploitation of participants and consideration of conflicts of interest.
- **Venues for delivery of restorative justice.** Guidelines should set out the ways that restorative justice can work across various forms of communication. There should be a variety of options available to people who have been harmed, and people should not be disadvantaged based on where they live. People living in regional, rural and remote communities should have equal access to face-to-face restorative justice
- **Additional supports required for safe and effective participation.** Guidelines should set out the types of additional supports participants may need in order to fully and safely participate in restorative justice, and the interaction of these supports with the restorative justice process.

This is far from an exhaustive list.

Recommendation 2:

Resource independent expert organisations in restorative justice that are already successfully delivering community-based restorative justice processes to consult and develop national guidelines for restorative justice delivery.

5. Oversight of restorative justice

There should be a designated body or bodies for overseeing implementation of national restorative justice guidelines, training restorative justice facilitators, and engaging in other education, training and public awareness activities. This could be one national body, one body per state and territory, or both national and state/territory bodies with some functions held at the national and some at the state/territory level.³

³ For ease of writing, we refer to this as ‘the designated restorative justice body’ throughout, but this may be multiple organisations depending on the model adopted.

This would support and promote the delivery of restorative justice processes by facilitators based at community-based providers that are best-placed to design tailored restorative justice processes that meet the unique needs of their communities while remaining high-quality. There should be an emphasis on ensuring First Nations people, and people from other groups disproportionately impacted by sexual violence, can access training and accreditation as restorative justice facilitators.

Institutions like employers and education providers should be equipped to handle internal complaints in a best-practice manner based on restorative justice principles. The designated restorative justice body should provide training and education to institutions to support them to develop their own internal complaints processes in line with restorative justice principles.

Recommendation 3:

Fund the establishment of a designated body or bodies to oversee restorative justice.

6. Restorative justice providers

Restorative justice must not be provided exclusively through government departments and agencies. This approach would undermine one of the significant benefits of establishing restorative justice approaches more broadly – providing a justice option to victims and survivors who are fearful or distrustful of state institutions.

Restorative justice provision should be community-based. Governments should resource a network of restorative justice providers embedded in communities across the country, that have built trust with, and that have a strong understanding of, their communities and their unique needs.

The designated restorative justice body may itself be a provider of restorative justice, but should provide training for restorative justice facilitators at, and oversight of, community-embedded restorative justice providers.

Aboriginal community-controlled organisations should be resourced to develop and deliver accredited restorative justice processes for First Nations people. Where there is no appropriate Aboriginal community-controlled organisation to deliver restorative justice in a given area, processes should be co-designed with local Aboriginal communities, and Aboriginal restorative justice facilitators should be available at mainstream providers for First Nations people who would prefer a First Nations facilitator. First Nations people should have the choice as to whether they'd prefer to seek restorative justice from a First Nations provider or a mainstream (or another specialist) provider.

Organisations representing other groups of people who experience justice barriers and who are overrepresented in sexual violence statistics should be resourced to become restorative

justice providers, with restorative justice facilitators that can deliver processes responsive to the needs of those groups. This includes (but is not limited to):

- People with Disabilities
- LGBTIQ+ people
- Refugees and people seeking asylum
- Cultural and religious minority communities
- Older people

People in regional and remote communities can be more reticent to pursue criminal legal avenues, and access to services is generally more limited in these communities. This means restorative justice processes are likely to be in greater demand in the areas in which there is less service capacity to meet that demand. Additional consideration must be given to ensuring equal access to restorative justice (including face-to-face) for people in regional and remote communities. This includes resourcing the training and accreditation of restorative justice facilitators from these communities.

Recommendation 4:

Provide funding for community-based restorative justice providers embedded in communities across the country.

7. Referral pathways

7.1 Referrals from service providers

One main challenge and practical consideration when integrating restorative justice within existing justice processes is the very varied and often lacking understanding of restorative justice among professionals whose roles make them likely points of disclosure of sexual violence.

For restorative justice to be available to all victims and survivors of sexual violence requires that all service providers that encounter victims and survivors have established referral pathways to restorative justice. This includes health providers, schools and universities, social services, and more.

For effective referrals, potential referrers must know about restorative justice, the types of people it may benefit and in which ways, and how to connect people who have been harmed with restorative justice providers.

It is important that participating in education and training about restorative justice is incentivised for people whose jobs make them likely points of disclosure for sexual violence.

Often these are workers with little spare time. The Federal Government should work with relevant national accrediting professional bodies to ensure that workers can access Continuing Professional Development points, or other similar incentives, for participating in training on restorative justice.

7.2 Self-referrals

People who experience sexual violence should also be able to easily self-refer to restorative justice. This requires that the person who has experienced harm knows about restorative justice, and that there are multiple straightforward avenues for self-referral. It also requires that people and communities don't hold misconceptions or feel a lot of confusion about what restorative justice is and what it requires.

7.3 Criminal legal system referrals

There should be strong referral pathways in place to restorative justice from criminal legal authorities like police, prosecutors, and courts. Discussed further in section 3.7 above.

Recommendation 5:

Resource the designated restorative justice body and restorative justice providers to:

- *Create and distribute informative materials about restorative justice for professionals whose roles mean they may be a point of disclosure of sexual violence*
- *Provide education and training on restorative justice to workers who may be points of disclosure of sexual violence.*

Recommendation 6:

Work with relevant national accrediting professional bodies to ensure that professionals including psychologists, clinical social workers, health professionals, educators, lawyers and other relevant workers can access Continuing Professional Development points, or other similar incentives, for participating in training on restorative justice.

Recommendation 7:

Resource the designated restorative justice body to develop a public awareness campaign about restorative justice, including information in accessible formats and many languages.

Recommendation 8:

Resource the designated restorative justice body and restorative justice providers to develop community education and community legal education on restorative justice, with priority focus on reaching groups and communities that may mistrust or fear the criminal legal system, and the demographics that experience higher rates of sexual violence.

8. Support for victim-survivors

Restorative justice requires difficult conversations about violence, which can often be retraumatising. People who have experienced harm and engage in a restorative justice process will often need significant support. This can include informal supports like from family and friends, as well as professional supports like from health and legal professionals.

Restorative justice must not be limited to people who can afford to privately fund support services for themselves. For it to become a viable mainstream option it must be equally available to all in the community, which includes proper resourcing for free wraparound support services that people need. Without properly resourced free wraparound support, people who can't afford to access private services will be excluded from restorative justice.

There must be funding dedicated to specialised sexual violence counsellors, free specialised independent legal support, culturally appropriate supports for First Nations people, supports for people with cognitive Disabilities, supports for people from culturally and linguistically diverse backgrounds, and other forms of specialised support.

Recommendation 9:

Adequately resource support services so that all people who have experienced harm and are seeking restorative justice can access free wrap-around support to ensure equitable, safe access to restorative justice regardless of income.

9. Services for people who have caused harm

A core principle for restorative justice is that it is optional. This means that for it to be broadly available for victims and survivors, resourcing must be put into providing support services to people who have caused harm that will encourage and facilitate their full participation.

Some restorative justice options will only allow for participation after the person who has caused harm has obtained independent legal advice. If a person who has caused harm cannot afford to pay for legal advice, this is a barrier to participation even where the person is otherwise willing to engage. This can deny justice to victim-survivors wishing to pursue restorative justice.

A common outcome desired by a person who has been harmed and is engaging in restorative justice is an agreement from the person who harmed them to take practical steps to work towards changed behaviour. This might include through participation in a men's behaviour change program, alcohol or other drug services, individual therapy and casework, or another avenue. This can be difficult to include in an agreement even where both parties agree that this is a desired outcome, because of the lack of available programs. There are not enough

programs. Many are expensive. Waitlists are too long. Programs that exist might not be appropriate for the circumstances of the harm that was enacted, or other specific characteristics of the person who caused harm.

There needs to be a diversity of properly funded men's behaviour change programs and other therapeutic and transformative services available so that people who have experienced harm and want to see rehabilitation of the person who has caused harm as a justice outcome are more likely to have that justice need met. Properly funded behaviour change and rehabilitation services also encourage higher uptake of restorative justice. People who have caused harm who are already engaged in these types of programs become more likely to agree to participate in restorative justice when asked.

Recommendation 10:

Adequately resource mental health, legal, behaviour change and other therapeutic programs for people who have caused harm.