

Restorative Justice Services

for children and young people and those harmed by their behaviour

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Introduction

Origins

For a number of years Restorative Justice Services have worked with children and young people referred to the Children's Reporter and the Children's Hearing because of offending. These services have been recognised as a valuable means of addressing the harm their behaviour has caused.

A previous version of this document provided guidelines for the use Restorative Justice Services in the Children's hearings system. However, there were no national guidelines regarding the use of Restorative Justice Services by other agencies including schools, the police, anti-social behaviour teams, residential child care settings and social workers. *Getting it Right for Every Child* and other related policy developments promote the use of a consistent and equitable approach to improving outcomes for children no matter where their needs present themselves. Restorative justice is a unique approach, and so all of the agencies involved need to have a shared understanding of what it is and how to ensure that it is used in a way that is safe, effective and contributes to positive outcomes. Other agencies need to know why and when to engage Restorative Justice Services, and what should be expected from this process.

Objective

The following document will act as a guide to the principles, protocols and criteria for the use of Restorative Justice Services in Scotland for children and young people and those harmed by their behaviour. It is the product of work undertaken by a group comprising representatives from the range of agencies listed above, practitioners and managers from Restorative Justice Services across Scotland, a restorative justice consultant and the Scottish Government.

Context

This document does not cover every aspect relating to the practical application of restorative justice. The standards of practice agreed upon and expected by those delivering a Restorative Justice Service can be found in the document *Best Practice Guidance for Restorative Justice Practitioners, and their Case Supervisors and Line Managers (Scotland)*.¹

Nor should this document be confused with the wider application of restorative practices in schools on a day to day or whole school basis, but rather to the application of restorative justice services to incidents of harm which require a youth justice approach from out with the school.

These documents relate to and complement the *Scottish Government's Best Practice Guidance for Restorative Justice Practitioners and their Case Supervisors and Line Managers (Scotland)*.

Summary

It is intended that these documents will provide a resource for agencies that wish to make use of Restorative Justice Services, and to ensure that Restorative Justice Services are delivered with the necessary consistency and quality. The Scottish Government has also commissioned a National Evaluation Project that will produce annual reviews (starting in 2008) that aim to show the extent to which Restorative Justice Services across Scotland are effective and are operating in accordance with this document.

Restorative justice services have an important role to play in addressing the harm caused by the behaviour of children and young people, whether on its own or as part of a range of additional services. These documents are a vital contribution to that work.

¹ <http://www.restorativejusticescotland.org.uk/BPGScotland.pdf>

1. Statement of Principles on the Use of Restorative Justice Processes

Preamble

1. There has been a significant growth of Restorative Justice Services across Scotland as a consequence of Government strategies and policies to prevent, address and reduce behaviour by children and young people that causes harm to individuals and communities. This Guidance seeks to enable any agency that identifies such behaviour to bring a Restorative Justice Service to the relevant child or young person and to those who have been harmed. These agencies include schools, anti-social behaviour teams, police, the Children's Hearings System, residential child care settings and social workers.
2. *The Children (Scotland) Act 1995* requires that the following central principles be considered in reaching decisions: (a) the welfare of the child is the paramount consideration; (b) no compulsory intervention should be made unless it would be better for the child than no compulsory intervention at all; and that (c) children should be given an opportunity to express a view and, if they do so, consideration should be given to the child's views.
3. Getting it right for every child is a national programme that is changing the way adults think and act to help all children to grow, develop and reach their full potential. Over the coming years, Getting it right for every child will help practitioners working with children and those associated with them, to remove all of the obstacles that can block children's paths on their journey from birth to adulthood.
4. It is recognised that some of these obstacles are rooted in the different cultures, systems and practices that have developed over decades within single agencies and the necessary alignment across Scotland has to be a long term commitment. The primary role of the Scottish Government will be supporting, facilitating, promoting and monitoring change at local level while leading on those areas that require a national solution
5. Getting It Right For Every Child is intended to ensure that children and young people get the help they need when they need it and are central to the process of finding solutions. Everyone working with children and young people should use a consistent and equitable approach, sharing information where required and working more effectively together to improve outcomes for children and young people. Individuals need to be clear on their personal responsibility to do the right thing for each child and how they support the collective responsibility. Parents and children should benefit from a collaborative approach which results in fewer meetings, are required to give their information only once, go through one assessment process and receive one plan that will meet all of their needs. Agencies and professionals are to be freed up to take appropriate, proportionate and timely action with the minimum of paperwork, bureaucracy and duplication.
6. Of those people who are harmed by the behaviour of children and young people, many are children and young people themselves.¹ Agencies have similar responsibilities under *Getting it Right for Every Child* to those children and young people who are harmed by others.
7. This Guidance facilitates the lawful sharing of information between agencies for the purposes of enabling the involvement of Restorative Justice Services with children and young people and those harmed by their behaviour. However, the Guidance has no legal standing. All agencies, and all staff of these agencies, and any actions, must comply with

¹ For example: In Scottish Executive Central Research Unit, "Young People and Crime in Scotland: Findings from the 2000 Scottish Crime Survey" (Scottish Executive, 2002), nearly one in 5 young people aged between 12 and 15 reported being the victim of crimes of violence or theft in the preceding year. Also, in W. J. Nicol, S. Kirkwood. & L. MacFarlane, "Sacro Youth Justice Services Evaluation: April 2004–March 2005" (Sacro, 2006), it was reported that 16% of persons harmed who came to the attention of Sacro's Youth Justice Services were under the age of 16.

existing legislation regarding the sharing of information. It remains the responsibility of each individual agency to establish the legal basis for its actions.

8. The fundamental difference between the children's hearings system and other youth justice systems is that by virtue of being referred to the reporter a child charged with an offence is diverted from prosecution in a criminal process and instead enters a non-retributive civil procedure which aims to meet the child's educational and developmental needs.
9. Whilst restorative justice can function effectively within a context in which the welfare of the child is the 'paramount consideration', this does not imply that the interests and needs of those who have been harmed by the child's behaviour can be neglected, disregarded or diminished; restorative justice processes, by definition, seek an outcome that is in the best interests of all the participants.¹
10. *Scotland's Action Programme to Reduce Youth Crime (2002)* indicates that the confidence of victims in Scotland's youth justice system needs to be restored, and that restorative justice approaches can "go some way" toward meeting this objective.
11. The National Standards for Scotland's Youth Justice Services (2002) states that "Every victim of a young offender referred to the reporter on offence grounds will have the opportunity to engage in a [restorative justice] scheme, where appropriate".
12. Those harmed and/or the person responsible for causing harm may not wish to communicate in a restorative justice process. If so, then the Restorative Justice Service should offer (a) an appropriate support process to the person harmed (in partnership with relevant victim services) and (b) a victim awareness process to the person responsible.²
13. Restorative justice is primarily designed to address the harm caused by identifiable action(s), rather than (merely) to address the underlying causes of harmful behaviour or patterns of such behaviour; although it can and generally does have the effect of reducing the level of harmful behaviour,³ the reason for, and the focus of, any restorative justice process will be identifiable action(s) that have caused harm.
14. Restorative Justice should be distinguished from mediation, in that mediation is designed to address a conflict or dispute, whereas restorative justice is designed to address harm.⁴ However, there are several overlaps: (a) harm may be caused as a result of an escalating conflict, in which case there may be a dispute that needs to be addressed alongside the restorative justice process in order to achieve a sense of genuine resolution; (b) conflict may occur within a restorative justice process, and so mediation skills may be needed to resolve the matter.
15. Restorative justice services should be distinguished from schemes for which the sole or primary purpose is to ensure that the person responsible carries out a reparative task, a reparation order, or that they provide restitution or compensation. The primary aim of a restorative justice process is to enable people to express their *feelings* in a safe and constructive way, and to ensure that people take *moral responsibility* for their part in what happened. Some kind of reparative task or agreement will often emerge from this process, particularly in cases involving theft or property damage; but that agreement is secondary and should not therefore cloud the main aim.

¹ "We believe that sensitively managed restorative justice approaches can be in the best interests of many of the children and young people who offend and their victims", *Scotland's Action Programme to Reduce Youth Crime (2002)*.

² See Section 1.D.3 of the "Best Practice Guidance (Scotland)".

³ See for example, by Lawrence W. Sherman and Heather Strang, "Restorative Justice: The Evidence", (The Smith Institute, 2007): Ch 10; and John Braithwaite "Does Restorative Justice Work?", in *Restorative Justice and Responsive Regulation* (OUP, 2002): Ch. 3.

⁴ This document acknowledges that some countries, particularly in the European Union, have chosen to describe their Restorative Justice Services as 'Victim-Offender Mediation' or 'Penal Mediation'.

16. Restorative justice can meet a range of needs that arise in the aftermath of behaviour that has caused harm:
- (a) For the person harmed, it gives them the opportunity to have their views and needs taken into account; to find out what happened and why; to convey the suffering and distress that they have experienced or continue to experience; to receive a sincere apology; and to have the value of their losses acknowledged and amends made.
 - (b) For the person responsible, it gives them the opportunity to learn that their actions can have harmful consequences for others; to develop their conscience and capacity to empathise; to take responsibility and be accountable for their actions; and to be motivated to desist from future harmful behaviour.
 - (c) For the community¹, it gives them the opportunity to use an approach that restores and builds relationships and support networks; to draw on and strengthen community-based resources and solutions; and to have a process that enables those who cause material damage or emotional distress in the community to address the harm they have done.

1.1 Use of terms

1. "Person harmed" means a person who has been directly harmed or affected by an offence.
2. "Person responsible" means a person who bears some or all of the responsibility for the action(s) that have caused harm.
3. "Support Person" means whoever the person harmed or person responsible have agreed or invited to support them in a restorative justice process; and may include parents or carers, siblings, extended family members, friends, or professionals (social workers, counselors, health worker, and so on).
4. "Other Affected Persons" means any professional or community member who has been invited to participate in a restorative justice conference, whose presence is accepted by all participants, and who are able to represent the views, wishes or interests of the agency they represent or the wider community.
5. "Observers" means anyone who attends a restorative justice process without participating, and whose presence is accepted beforehand by all participants.
6. "Participants" means the person harmed, the person responsible, support persons and, where relevant, other affected persons.
7. "Facilitator" means a person whose role is to facilitate, in a fair and impartial manner, the restorative justice process.
8. "Restorative justice process" means any process in which all those involved participate together actively to address or repair the harm caused by the incident, generally with the help of one or two facilitators. Each process aims to enable the participants to explore, in a safe and structured way, (1) *the facts* – what happened and why, (2) *the consequences* – how people were affected, and (3) *the future* – what agreements or Action Plan needs to be made to meet the needs of all participants, including the central needs of addressing the harm and preventing the incident from re-occurring. To ensure the safety and effectiveness of the process, no meeting is held without the facilitator preparing all participants in advance.

¹ The term 'community', in this context, refers to the immediate family and friends of the persons harmed/responsible; and/or the wider circle of individuals or groups who are aware of or have been indirectly affected by the incident; and/or the social contexts or institutions in which the incident took place (e.g. neighbourhood, school, prison, workplace, shopping centre, etc.)

9. Restorative justice processes fall into three broad categories, dependent on the kind of communication (if any) that takes place between the person harmed and the person responsible: that is direct communication, indirect communication and cases where communication is either not possible or not appropriate.

(a) Restorative justice processes involving direct communication include the following:

- “Restorative Justice Conferences” – also called “Restorative Conferences” and “Police Restorative Warning Conferences” – are normally led by two facilitators and are attended by the person(s) harmed, the person(s) responsible, their respective support persons, other affected persons where appropriate, and observers where agreed.
- “Face-to-Face Meetings” – also called “Restorative Meetings” – can be led by either one or two facilitators and are attended only by the person(s) harmed, the person(s) responsible, and observers, where agreed.
- “Restorative Justice Circles” are normally led by two facilitators and are arranged when a number of individuals have harmed an institution, group or community, rather than caused direct harm to any individual (e.g. vandalism). They are attended by affected person(s), the person(s) responsible, and observers where agreed.

(b) Processes involving indirect communication include the following:

- “Shuttle Dialogue” involves a facilitator acting as a go-between to enable the person(s) harmed and the person(s) responsible to communicate without meeting.
- “Police Restorative Warnings” are normally facilitated by one police officer and are attended by the person responsible and his or her support persons. The views and requests of any person harmed are obtained by the police officer and conveyed to those present at the Warning. If the person harmed wishes, the outcome of the Warning is fed back to them.
- “Restorative Family Group Conferences” are normally led by one or two facilitators and are attended by the person responsible, his or her family members and support persons, and professionals who are working with or have some involvement with the person responsible. The views and requests of any person harmed are obtained by the facilitator and conveyed to those present at the conference. The professionals present their perspective and information on resources they can provide. The ‘family group’ meet privately to come up with an action plan, which is then refined and finalised in the larger group. If the person harmed wishes, the outcome of the conference is fed back to them.

(c) Processes where no communication is possible or appropriate include the following:

- “Support for Persons Harmed” involve only the person harmed meeting with a facilitator to talk about their experience, short- and long-term reactions, strategies for the process of moving on and access to other support services.
- “Victim Awareness” involves only the person responsible in one-to-one or group-work sessions with a facilitator, and may include reparative tasks.
- “Restorative Conversations” involve only the person responsible in a 5-10 minute meeting with a facilitator, normally in an institutional setting (schools, prisons,

secure care, etc.) but may also be used to address anti-social behaviour or the incidents in the workplace.

10. "Restorative justice outcome" means (a) the emotional, cognitive and relational benefits felt by the participants during and following a restorative justice process, such as feelings of safety, increased self-esteem, the letting go of anger, increased empathy, and so on; it also means (b) an agreement or Action Plan reached as a result of a restorative justice process, which may include tasks and programmes aimed at meeting the individual and collective needs and responsibilities of the participants. This may include tasks that seek to address, either practically or symbolically, loss or damage experienced by the person harmed, and programmes for the person responsible that seek to address the underlying causes of their behaviour (such as anger management, substance misuse, peer pressure, and so on).
11. "Restorative Justice" is the term that has been most commonly used to identify the processes with which this document is concerned. Restorative practices (RP) in an educational context are defined as restoring good relationships when there has been conflict or harm; and, developing school ethos, policies and procedures to reduce the possibility of such conflict and harm arising.¹ In this context, RP employ a variety of strategies or practices including restorative ethos building, curriculum focus on relationships/ conflict prevention, restorative enquiry, restorative conversations, mediation, shuttle mediation and peer mediation, circles – checking in and problem solving circles, restorative meetings, informal conferences, classroom conferences and mini conferences, and formal conferences. This document refers *only* to those processes that are specifically designed to address incidents that involve serious harm and intervention from youth justice services.

1.2 Use of restorative justice processes

1. The use of Restorative Justice Services for children and young people and those harmed by their behaviour is subject to these principles and the protocols and criteria for involvement outlined in this Guidance.
2. Restorative justice processes should be considered only where the agency that identifies the concern considers that there is sufficient evidence that the child or young person is responsible for the action(s) that have caused harm. The process should not proceed unless the child or young person in question accepts some or all responsibility for the action(s) that have caused harm, as described by the agency in question.² Where those involved in an incident are, more or less, equally 'responsible' and 'harmed', then *both* need to take responsibility for their part in causing harm and *both* need to have whatever harm they have experienced addressed or repaired. (In such cases, since *harm* is the focus, the approach required is restorative, not mediation - see para. 13 in the Preamble).
3. If a multi-agency partnership or single agency is to use an RJS, it will first ensure that it has the capacity to carry out the tasks of case-coordination and monitoring.
4. The person harmed and the person responsible should normally agree on the basic facts of a case as the basis for their participation in a restorative justice process.
5. Restorative justice processes must be voluntary for all participants at every stage: thus no one should be coerced, pressured, or induced by unfair means (a) to take up the invitation

¹ *Restorative Practices in Three Local Councils, Evaluation of Pilot Projects 2004 – 2006 by the Universities of Edinburgh and Glasgow*, Scottish Executive, 2007

² "This practice is based on a desire not to bother crime victims with the emotional work of deciding whether or not to communicate with the offender – unless the offender is willing to communicate and appropriately takes responsibility." Lawrence W. Sherman and Heather Strang, "Restorative Justice: The Evidence", (The Smith Institute, 2007): p. 37

- to have the process explained to them by a facilitator, (b) to participate in a restorative justice process, or (c) to enter into any agreements as part of the restorative outcome. All participants should be able to withdraw such consent at any time during the process.
6. If the person responsible or person harmed is a under the age of 16, parental or guardian agreement and support for their participation in a restorative justice process should be sought. If parents or guardians actively oppose participation, then the restorative justice process should not proceed.
 7. Agreements or Action plans should contain only reasonable, constructive, mutually respectful and proportionate obligations. They must be restorative rather than punitive.
 8. Disparities leading to power imbalances, as well as cultural differences among the participants, should be taken into consideration in referring a case to, and in facilitating, a restorative justice process.
 9. The health and safety of the participants will be considered in referring any case to, and in facilitating, a restorative justice process.
 10. Where restorative justice processes are not suitable or possible, or where no agreement is reached or where the agreement failed to be implemented, the case should be reported back to the agency that has identified the concern and a decision should be taken as to how to proceed without delay. Such cases do not prevent the Restorative Justice Service from offering appropriate Support to the Person Harmed, if requested; nor do they prevent the agency in question, where appropriate, from encouraging the person responsible to take responsibility for their actions, and supporting his or her positive participation in the community in whatever alternative ways are available.
 11. Where a person responsible has successfully completed a restorative justice process, they should be provided with official recognition of their accomplishments.
 12. The following principles relate to the rights of persons harmed in the context of restorative justice processes:
 - (a) Persons harmed have a right to be supported in a way that meets their needs as they see them, regardless of whether or not communication takes place in a restorative context.
 - (b) The participation of persons harmed in a restorative justice process must be voluntary: they may withdraw from the process at any stage.
 - (c) Persons harmed should be given the opportunity and information on how to access independent support and advice.
 - (d) Whilst a restorative justice process will normally begin once the person responsible has acknowledged causing harm, persons harmed have the right to request that a Restorative Justice Service initiate a restorative justice process on the understanding that the service may establish that the person responsible may not be identifiable or suitable.
 - (e) Routine support should be provided to persons harmed immediately after an incident, and restorative justice should be offered as part of the ongoing services available to persons harmed, if they wish. This service-provision should be in accordance with the relevant agencies' practices and procedures for the support of persons harmed.
 - (f) Persons harmed should be given the opportunity to opt-out from having their contact details passed on to any Restorative Justice Service. By way of explanation: (i) opt-out meets the needs of the person harmed by ensuring that they receive the help they may need when they need it without having to ask for it; (ii) research has found that the opt-

out method is “the most effective means of generating victim participation”¹; (iii) by not opting-out the person harmed is not thereby agreeing to participate in a restorative justice process – they are agreeing only to have their contact details passed to the RJS; (iv) this is not the final opportunity for the person harmed to decide not to meet with the RJS, as they can choose not to do so when the RJS contacts them to arrange an initial meeting.

1.3 Operation of restorative justice

1. All involved in Restorative Justice Services in Scotland should respect the principles set forth in this document and should adhere to:
 - (a) The criteria for the use of Restorative Justice Services;
 - (b) The protocols for the use of Restorative Justice Services;
 - (c) The standards of best practice that govern the operation of restorative justice, as presented in the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*;²
 - (d) The requirement for appropriate training, continuing professional development and the ongoing assessment of facilitators

2. Fundamental procedural safeguards guaranteeing fairness to the person responsible and the person harmed should be applied to restorative justice processes:
 - (a) The person responsible and the person harmed have the right to obtain legal advice concerning the restorative justice process. Where necessary, they have a right to translation and/or interpretation. The person responsible, in addition, has the right to the assistance of a parent or guardian.
 - (b) Before agreeing to take part in restorative justice processes, the participants should be fully informed of their rights, the nature of the process and the possible consequences of their decision.

3. Discussions in restorative justice processes should adhere to the principles of confidentiality as expressed within the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.

4. The results of agreements arising out of a restorative justice process should be reported to the agency that identified the concern.

5. Where no agreement is reached among the participants or where an agreement made in the course of a restorative justice process fails to be implemented, then this should be reported to the agency that identified the concern and involved the Restorative Justice Service.

1.4 Continuing development of restorative justice

1. The agencies and Restorative Justice Services should take into account the formulation of Scottish Government strategies and policies aimed at (a) the development of restorative justice in a *Getting it Right for Every Child* context and at (b) the promotion of a culture in

¹ “The National Evaluation of The Youth Justice Board’s Restorative Justice Projects” Wilcox & Hoyle (Youth Justice Board 2004): p. 9. “The ‘opt in’ letter . . . had a generally low take-up rate. In one such project, only 4% of the 345 victims contacted were willing to meet the offender, and most did not reply. . . . Far higher victim contact rates were reported when [the opt-out] method was used (for example in IS111, 83% of victims were contacted).” *Ibid.* p. 29.

² <http://www.restorativejusticescotland.org.uk/BPGScotland.pdf>

Scotland that is favourable to the use of restorative justice with children and young people who engage in behaviour that causes harm among law enforcement, judicial and social authorities, as well as local communities.

2. There should be regular consultation between administrators of Restorative Justice Services, representatives of those agencies that make use of these services, and service users to develop a common understanding and enhance the effectiveness of restorative justice processes and outcomes, to increase the extent to which restorative justice processes are used, and to explore ways in which restorative approaches might be further incorporated into those agencies.
3. Restorative justice services and agencies that make use of these services should promote research on and evaluation of restorative justice processes to assess the extent to which they result in restorative outcomes, serve as a complement or alternative to other services and provide positive outcomes for all those involved. Restorative justice processes may need to undergo change over time. Regular evaluation and modification of such processes should therefore be encouraged. The results of research and evaluation should guide further policy and development.
4. Restorative justice services should remain aware of the development of restorative practices in schools also in relation to research, evaluation and change over time.

These principles have been adapted from "Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters", a resolution prepared by a UN Expert Group and adopted on July 24, 2002 by the UN Economic and Social Council to encourage countries to use in developing and implementing restorative justice in their countries. Other documents that were taken into account in the development of these principles are: the *Restorative Justice Consortium Statement of Principles for Restorative Justice*, and *Recommendation No R (9) Concerning Mediation in Penal Matters, 1999, Council of Europe*.

2. Criteria for the Use of Restorative Justice Services

The following are generic criteria for the use of Restorative Justice Services:

1. The person responsible for causing harm will be aged up to the age of 18 years.¹
2. The person responsible will currently² reside within the geographical area covered by the Service.
3. The agency considers that there is sufficient evidence that the child or young person is responsible for specific action(s) that have caused harm. This is not restricted to an incident that constitutes a criminal offence. In relation to the use of RJS, there is no limitation on how many previous incidents the person responsible has been involved in, or how many times a person responsible has taken part in a restorative approach for previous incidents. The RJS will assess the suitability of the person responsible to participate in relation to each incident.
4. Restorative justice processes have been shown to be most effective where:
 - (a) the agency brings a Restorative Justice Service to the child or young person as soon as possible after the incident that has caused harm (research shows that restorative justice processes that begin more than 3 months after an incident may limit its effectiveness, except for the most serious offences);³
 - (b) the incident has (or is likely to have) had a significant impact upon or caused serious harm to an identifiable person or persons⁴; and
 - (c) if the incident has had an impact on an organisation or community, the needs and views of that organisation or community are communicated, in person, by a suitable representative, to the person responsible.
5. It is not appropriate to use Restorative Justice Services to address the harm caused by sexual offences or other serious and violent crimes such as murder or attempted murder, unless the case is taken by a practitioner who has been specifically trained in this area, with appropriate case supervision and independent therapeutic support available to all those involved.

¹ As stated in 7a. of the protocol, the restorative justice practitioner is responsible for assessing whether the person responsible is emotionally and cognitively capable of participating safely and effectively in a restorative justice process, in accordance with the standards for assessment set out in the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*. Where the person responsible is aged 16 or 17, is not the subject of supervision requirement, and is charged by the police with an offence, this guidance does not affect the existing duties of the police in relation to the reporting of offences to the Procurator Fiscal.

² The RJS can provide a service even if the person responsible is normally resident outwith that area.

³ Denkers, & Winkel, 1998. "Crime victims' well-being and fear in a prospective and longitudinal study." *International Review of Victimology*, 5,141-162; Norris & Kaniasty, 1994. "Psychological Distress Following Criminal Victimization in the General Population: Cross-sectional, Longitudinal, and Prospective Analyses." *Journal of Consulting and Clinical Psychology* 62 (1): 111-123.

⁴ "In general, RJ seems to reduce crime more effectively with more, rather than less, serious crimes. The results below . . . suggest RJ works better with crimes involving personal victims than for crimes without them. They also suggest that it works with violent crimes more consistently than with property crimes, the latter having the only evidence of crime increases." Lawrence W. Sherman and Heather Strang, "Restorative Justice: The Evidence" (The Smith Institute, 2007): p.8; Mier, D. et.al., 2001: *An Exploratory Evaluation of Restorative Justice Schemes* (Crime Reduction Research Series Paper 9, Home Office UK: x.

3. Protocols for the Use of Restorative Justice Services

3.1 The Children's Reporter

This protocol proceeds on the basis that what is offered by a Restorative Justice Service is a service for the person responsible for an offence. Accordingly, the protocol adopts an approach that is similar to that adopted when a Reporter or Hearing requests a report from other services, such as drug and alcohol projects or youth justice teams.

The following procedure is to be followed in relation to the use of Restorative Justice Services (RJS) by Children's Reporters:

1. Having received a referral in terms of section 52(2)(i) of the *Children (Scotland) Act 1995*, the Reporter assesses that there is sufficient evidence that the person referred has committed an offence(s).
2. At the Initial Decision stage the Reporter considers the reports to be requested in relation to the person responsible for the offence (e.g. report from school, Initial Assessment Report or Social Background Report). The reports will be submitted in the usual time-scales.
3. If the offence meets the criteria for the use of a Restorative Justice Service (see Sect. 2), the Reporter will consider requesting a report from the RJS on the suitability of the person responsible for participating in a Restorative Justice Service in relation to the offence(s).
 - (a) The decision to request such a report from a RJS may be made after discussion with the RJS.
 - (b) Such a report will contain an assessment of the willingness of the child or young person to engage with the RJS and his/her current motivation to change and willingness to co-operate.
 - (c) The time-scale for submitting such a report will be up to 20 working days from the Reporter's request. If more time is needed to complete the assessment, then an interim report will be submitted within 20 days.
 - (d) The Reporter will have the option of requesting such a report in addition to, or as alternative to, the reports mentioned in paragraph 2 above.
4. In requesting a report from the RJS as described in paragraph 3, the Reporter will provide the RJS with the information regarding:
 - (a) The age of the person responsible;
 - (b) The name, address and, if possible, telephone details of the person responsible and his or her parents or guardians;
 - (c) The date, time and nature of the offence;
 - (d) The existence and age of any co-accused;
 - (e) The extent of any damage or harm caused to an identifiable person(s) and/or other affected persons;
 - (f) Any risk factors associated with the person responsible and his or her family situation;
 - (g) Involvement of social work or other relevant agencies, if known;
 - (h) Any previous participation by the person responsible in any restorative justice process.

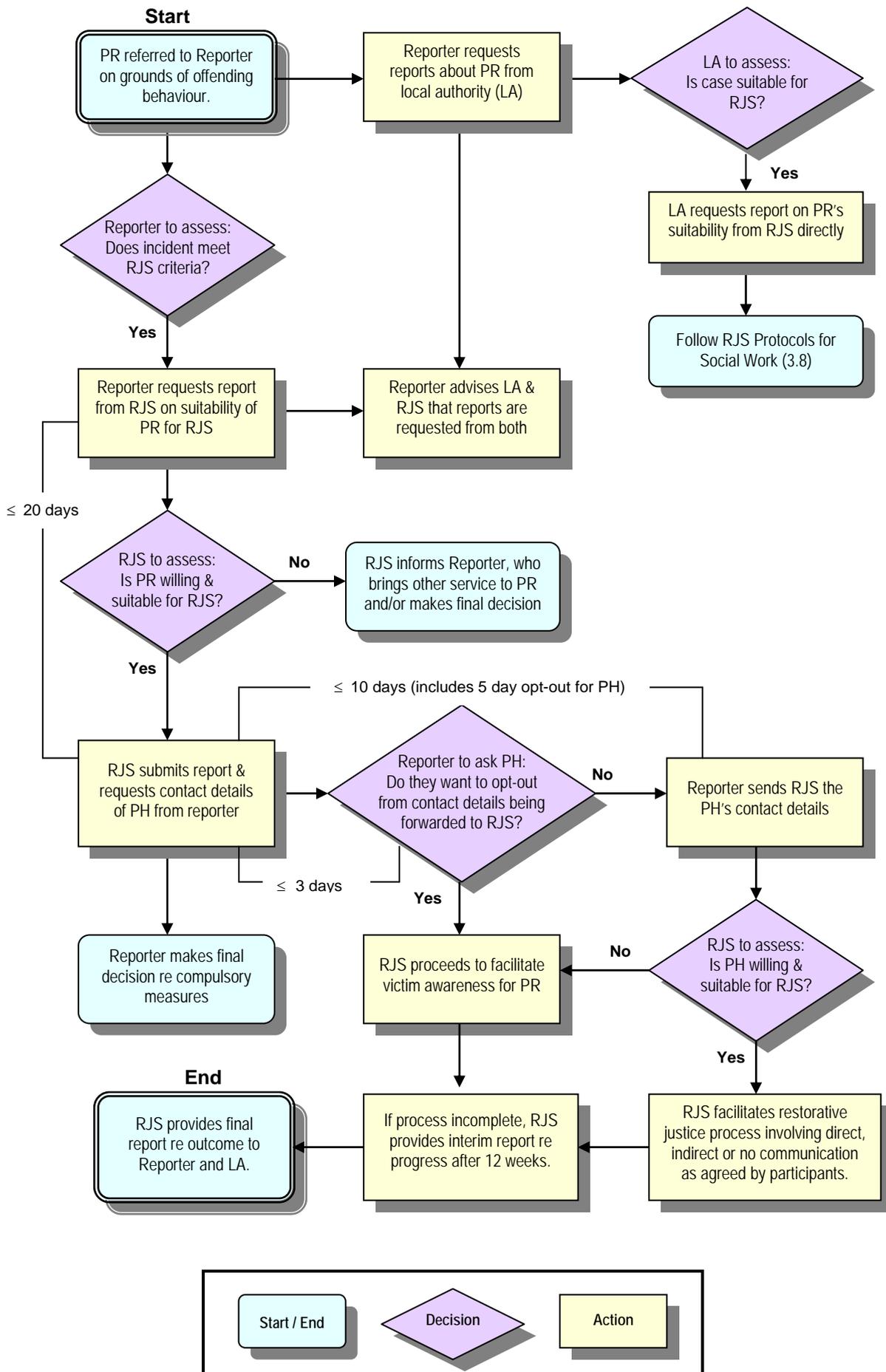
5. If the Reporter requests a report from both the RJS and an Initial Assessment Report (IAR) or Social Background Report (SBR) from the local authority, he/she will advise both the RJS and the local authority of the fact that both reports have been requested with a view to facilitating the co-ordination of work with the person responsible between the RJS and the local authority. (It is recognised that they may be one and the same organisation).
6. If the Reporter requests a IAR or SBR from the local authority and that service feels that a referral to a RJS may be appropriate, then the local authority may refer the person responsible directly to the RJS for assessment.¹
7.
 - (a) If the RJS assess that the person responsible is suitable for participating in the Restorative Justice Service, and is willing to participate, and, if the child is under 16, their parents or guardians agree with and support their child's participation or do not actively oppose it, then the RJS may proceed to offer that service, notwithstanding that the Reporter has not yet made his/her final decision. In order to proceed with the service, the RJS will submit the report requested in terms of paragraph 3 and request from the Reporter details of the person harmed by the offence.
 - (b) Within 3 working days of the request from the RJS, the Reporter will write to the person harmed to inform them that the Reporter will pass the name and address of the person harmed to the RJS in order that the RJS may contact him/her, if the person harmed has not contacted the Reporter within 5 working days of the letter being sent.
 - (c) If within 5 working days of the letter being sent, the person harmed does not contact the Reporter to indicate that he/she does not consent to their details being passed to the RJS, the Reporter will provide the RJS with his/her name and address within 10 working days of the original request by the RJS.
 - (d) The form of the Restorative Justice Service to be offered (e.g. Restorative Justice Conference, Face-to-Face Meeting, Shuttle Dialogue, Victim Awareness or Support for Persons Harmed) will be agreed between the person responsible, his/her parents, and the person harmed in accordance with the Section 1 of this document and the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.
8. The Reporter will proceed to make a final decision in relation to the referral(s) in the usual way, taking into account the reports received, in accordance with the *Framework for Decision-making by Reporters*. For the avoidance of doubt, the Reporter retains all of his/her statutory powers in relation to a final decision, notwithstanding that the person responsible may have begun to participate with the RJS in relation to the offence(s). The Reporter will not keep a referral open whilst awaiting the outcome of the participation of the person responsible with the RJS simply to see if the person responsible will co-operate.
9. If the Reporter's Final Decision is not to arrange a children's hearing as compulsory measures are not required and the person responsible is to participate in the RJS, the "Disposal" section of the Final Decision recorded in RAD will record "Restorative justice" as being the Disposal Detail. The Reporter's letter to the person responsible and other relevant persons will make clear the importance of the person responsible participating in the RJS.
10. If the Reporter's Final Decision is to arrange a children's hearing and the person responsible has begun (or completed) work with the RJS in relation to an offence referred to the hearing, the Reporter will request a report from the RJS to be made available to the children's hearing.

¹ For details on what is involved in this initial assessment, see Section 1.C of the "Best Practice Guidance (Scotland)".

11. If the Reporter's Final Decision is not to arrange a children's hearing, the RJS will provide a report to the Reporter at the conclusion of their work with the person responsible. The final report provided by the RJS will give details regarding the work carried out with the person responsible and his/her cooperation with that work. If the process has not been completed within 12 weeks from the time they receive the details of the person harmed, then a brief interim report should be submitted. Final Reports will be sent to both the Reporter and the local authority.

12. The co-operation of the person responsible is critical to the service provided and any non-co-operation subsequent to assessment, whilst impossible to completely prevent, must be reviewed by the service providers. Any local pattern of this situation must be evaluated by the service provider and Reporter to assess the quality of the assessment process, the service itself and the Reporter's decision-making.

RJS Procedures for Children’s Reporters



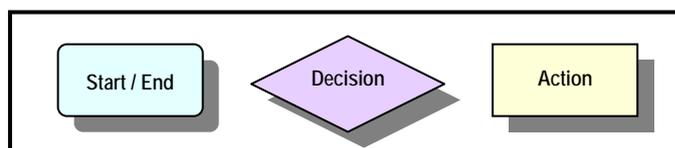
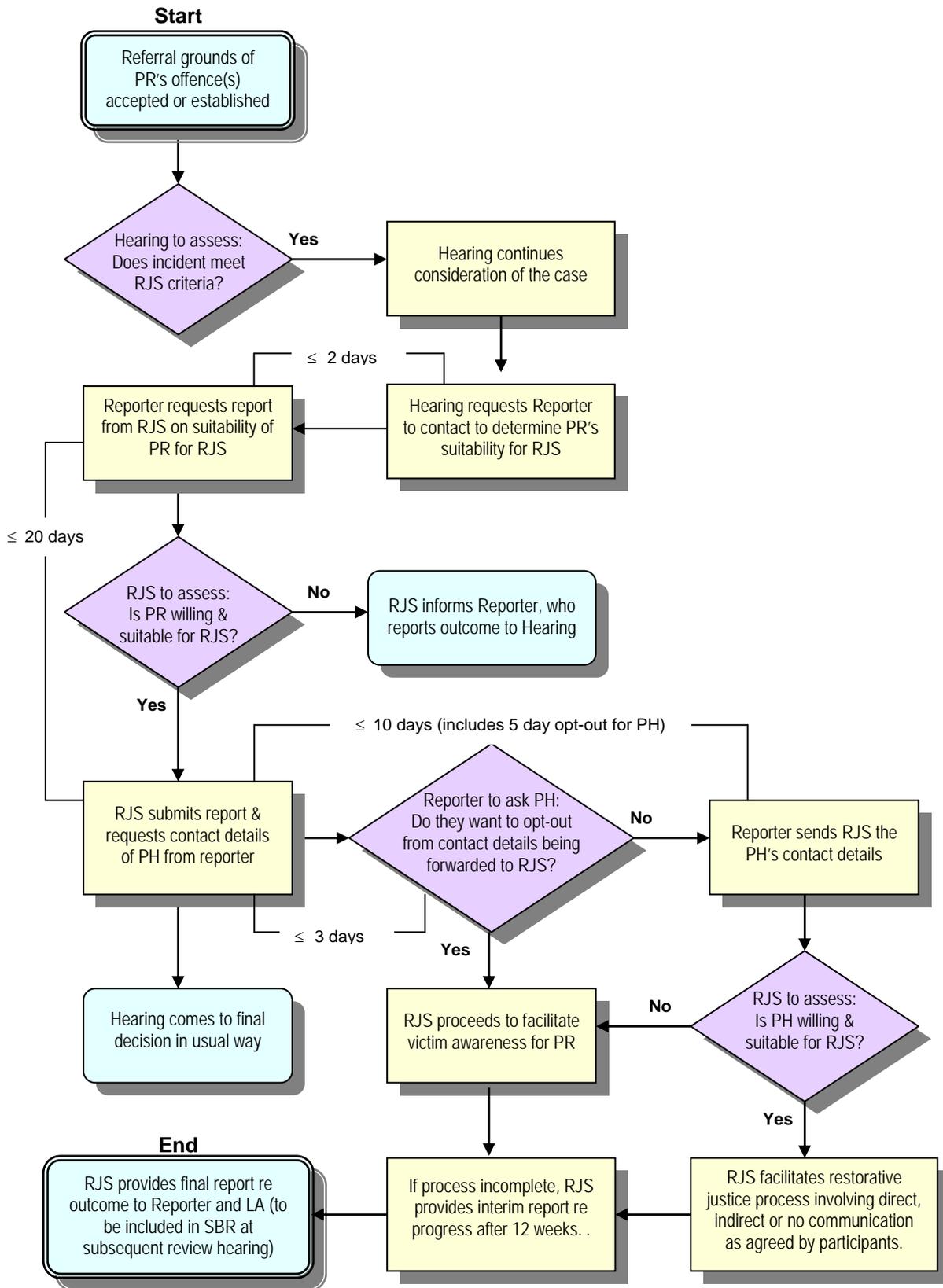
3.2 Children's Hearings

In most cases, a Restorative Justice Service will have been considered and offered prior to a hearing. However, if this has not happened, and a children's hearing decide to refer a person responsible for an offence to a RJS, then the following procedure is to be followed:

1. In cases where a person responsible has been referred to a hearing and has not yet participated in a Restorative Justice Service, the appropriateness of restorative justice would normally be included in the assessment available to panel members. Where this is not the case, then if the children's hearing, when considering a person whose accepted or established grounds for referral state that he/she has committed an offence, consider that a referral to a RJS is appropriate, they may continue their consideration of the case and request a report from the RJS on the suitability of the person responsible for participating in a Restorative Justice Service in relation to their offence(s).¹ The Reporter will contact the RJS within 2 working days of the hearing. The time-scale for the RJS report will be 20 working days. If more time is needed to complete the assessment, then an interim report will be submitted within 20 days.
2. (a) If the RJS assess that the person responsible is suitable for participating in the Restorative Justice Service, and is willing to participate, and, if the child is under 16, their parents or guardians agree with and support their child's participation or do not actively oppose it, then the RJS may proceed to offer that service, notwithstanding that the children's hearing has not yet made their final decision. In order to proceed with the service, the RJS will contact the Reporter requesting details of the person harmed by the offence.
 - (b) Within 3 working days of the request from the RJS, the Reporter will write to the person harmed to inform them that the Reporter will pass the name and address of the person harmed to the RJS in order that the RJS may contact him/her, if the person harmed has not contacted the Reporter within 5 working days of the letter being sent. The letter will make it clear to the person harmed that if he/she does not want to participate in the Restorative Justice Service and does not want his/her details passed to the RJS, then he/she will contact the Reporter within the 5 working day period.
 - (c) If within 5 working days of the letter being sent, the person harmed does not contact the Reporter to indicate that he/she does not consent to his/her details being passed to the RJS, the Reporter will provide the RJS with their name and address within 10 working days of the original request by the RJS.
 - (d) The form of the Restorative Justice Service to be offered (e.g. Restorative Justice Conference, Face-to-Face Meeting, Shuttle Dialogue, Victim Awareness or Support for Persons Harmed) will be agreed between the person responsible, his/her parents, and the person harmed in accordance with Section 1 of this document and the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.
3. On receipt of the report from the RJS, the hearing will proceed to come to a decision in the usual way. As the voluntary participation of a person responsible with a RJS is one of the principles stated in Section 1 of this document, the hearing will be advised that it would be contrary to those principles to make a condition of a supervision requirement regarding the participation of a person responsible with the RJS.
4. At a subsequent review hearing the social background report will include information as to the outcome of the involvement of a person responsible with the RJS.

¹ For details on what is involved in this initial assessment, see Section 1.C of the "Best Practice Guidance (Scotland)".

RJS Procedures for Children's Hearings



3.3 Police Referring to a Multi-Agency Group

The following procedure is to be followed in relation to the use of Restorative Justice Services (RJS) in the context of partnership working so as to make decisions in relation to the incident that has come to the attention of the police. For the purposes of this protocol, this decision-making framework will be called a 'Multi-Agency Group'.

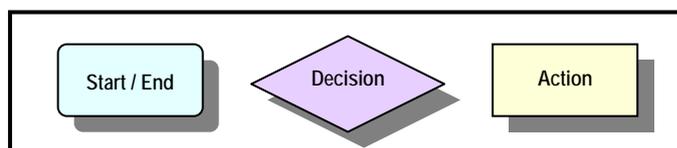
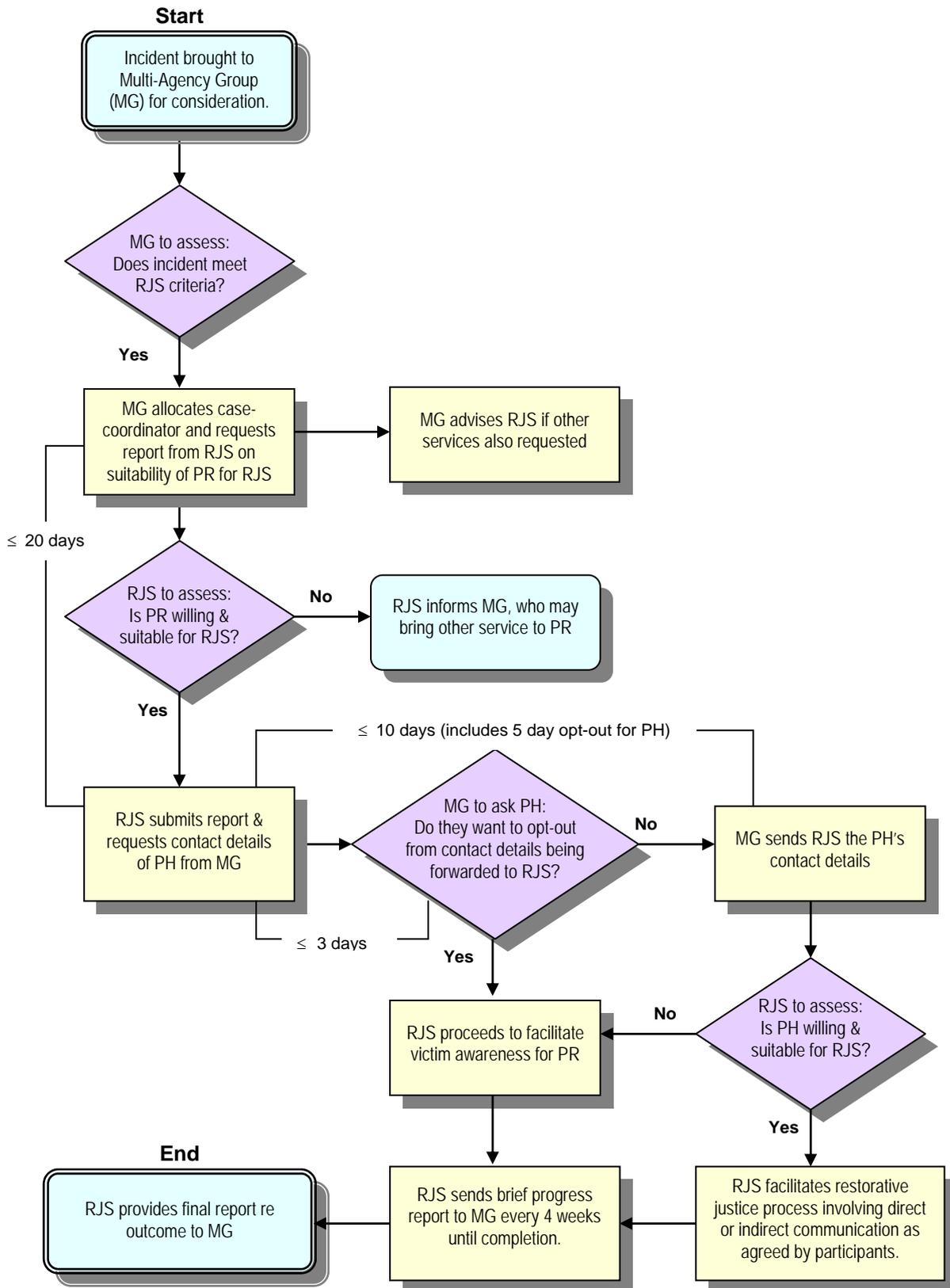
1. The Multi-Agency Group assesses that the case meets the criteria for the use of a Restorative Justice Service (see Sect. 2).
2. The Multi-Agency Group will ensure that any background information relating to the welfare of the child or young person is made available, so that the child or young person gets the help they need when they need it. This may involve bringing services in addition to restorative justice to the child or young person.
3. The Multi-Agency Group will allocate member(s) to coordinate the case to its conclusion and request a report from the RJS on the suitability of the person responsible for participating in a Restorative Justice Service in relation to the incident.¹
 - (a) The decision to request such a report from the RJS may be made after discussion with the RJS.)
 - (b) Such a report will contain an assessment of the willingness of the person responsible to engage with the RJS and his/her current motivation to change and willingness to co-operate.
 - (c) The time-scale for submitting such a report will be up to 20 working days from the Multi-Agency Group's request. If more time is needed to complete the assessment, then an interim report will be submitted within 20 days.
 - (d) The Multi-Agency Group will have the option of requesting such a report in addition to, or as an alternative to, requesting the involvement of other services mentioned in paragraph 2 above.
 - (e) If the Multi-Agency Group requests additional services, they will advise both the RJS and those additional services of the fact that they have been requested with a view to facilitating the co-ordination of work with the person responsible between the RJS and the additional services. (It is recognised that these additional services and the RJS may be provided by one and the same organisation).
4. In requesting a report from the RJS as described in paragraph 3, the Multi-Agency Group will provide the RJS with the information regarding:
 - (a) the age of the person responsible;
 - (b) the name, address and, if possible, telephone details of the person responsible and his or her parents or guardians;
 - (c) the date, time and nature of the incident;
 - (d) the existence and age of any co-accused;
 - (e) the extent of any damage or harm caused to an identifiable person(s) and/or other affected persons;
 - (f) any risk factors associated with the person responsible and his or her family situation;

¹ For details on what is involved in this initial assessment, see Section 1.C of the "Best Practice Guidance (Scotland)".

- (g) the involvement of relevant agencies, if known; and
 - (h) any previous participation by the person responsible in any restorative justice process.
5. (a) If the RJS assess that the person responsible is suitable for participating in the Restorative Justice Service, and is willing to participate, and, if the child is under 16¹, their parents or guardians agree with and support their child's participation or do not actively oppose it, then the RJS may proceed to offer that service to the child or young person. In order to proceed with the service, the RJS will submit the report requested in terms of paragraph 3 and request from the Multi-Agency Group contact details of the person harmed by the incident.
- (b) Within 3 working days of the request from the RJS, the Multi-Agency Group will write to the person harmed to inform them that the Multi-Agency Group will pass the name and address of the person harmed to the RJS in order that the RJS may contact him/her, if the person harmed has not contacted the Multi-Agency Group within 5 working days of the letter being sent.
- (c) If within 5 working days of the letter being sent, the person harmed does not contact the Multi-Agency Group to indicate that he/she does not consent to their details being passed to the RJS, the Multi-Agency Group will provide the RJS with his/her name and address within 10 working days of the original request by the RJS.
- (d) The form of the Restorative Justice Service to be offered (e.g. Restorative Justice Conference, Face-to-Face Meeting, Shuttle Dialogue, Victim Awareness or Support for Persons Harmed) will be agreed between the person responsible, his/her parents, and the person harmed in accordance with Section 1 of this document and the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.
6. A brief progress report will be submitted by the RJS to the Multi-Agency Group every 4 weeks from the time they receive the details of the person harmed. The final report provided by the RJS will give details regarding the work carried out.

¹ Where the person responsible is aged 16 or 17, is not the subject of supervision requirement, and is charged by the police with an offence, this guidance does not affect the existing duties of the police in relation to the reporting of offences to the Procurator Fiscal.

RJS Procedures for Police Referring to a Multi-Agency Group



3.4 Anti-Social Behaviour

The following procedures are designed for the use of Restorative Justice Services (RJS) by those responsible for making decisions in relation to anti-social behaviour. For the purposes of this protocol, those who hold this decision-making responsibility will be called the 'ASB Team'.

3.4.1 The Use of Restorative Justice Services for Anti-Social Behaviour

Restorative Justice Services are most likely to be used in relation to anti-social behaviour in the context of developing an Acceptable Behaviour Contract or Agreement (ABC/A). This introduction explains the distinctive approach that an RJS can provide in this context.

Restorative Justice Services aim to facilitate the production of a **Restorative ABC/A**.¹ This is a contract or agreement that aims:

- (1) to address the harm caused by the anti-social behaviour, and
- (2) to help prevent the anti-social behaviour from re-occurring.

To achieve these two aims, a Restorative ABC/A is produced by combining two approaches: Restorative Justice Processes and Family Led Decision-making.

Restorative justice processes enable those affected or harmed by anti-social behaviour to communicate - directly or indirectly - the impact of that behaviour to the person responsible. Those affected or harmed can also be involved in formulating relevant parts of the ABC/A (see the 'Use of Terms' for the range of restorative justice processes available).

Family Led Decision-Making enables the person responsible, their family and significant others to make a decision about how to prevent the behaviour from re-occurring in a safe, informed and supportive setting. Other relevant agencies contribute to this process and sign the ABC/A agreeing to provide the services (e.g. leisure, sport, hobbies, education, counselling etc.) which will enable the person responsible to make and sustain the necessary changes.

There are three core steps in this decision-making process (see table below). These steps can be carried out either by holding several meetings with different people, over a period of time; or by holding a single meeting with all the relevant people and agencies present. This meeting is called a **Family Group Conference (FGC)**. In cases where the person harmed would prefer to communicate indirectly, and the decision-making process is best suited to holding a single meeting, then a **Restorative FGC** can be held (see the 'Use of Terms' for a definition).

Three Core Steps in Family Led Decision-Making		
Step 1.	Information Sharing	The family present their perspective on the issues to the facilitator and professionals
		Professionals explain their perspective, resources available, bottom-line, to the family.
Step 2.	Private Family Time	The family meet in private to come up with a plan to resolve issues related to the anti-social behaviour, taking into account the information provided in Step 1.
Step 3.	Agreeing on the Plan	Family presents their plan to the professionals, which is reality-tested, clarified, then agreed upon (= ABC/A)

¹ The combination of restorative justice processes and family-led decision making may also be used by an RJS to produce a contract or agreement that is pre-ABC/A, that is, a more informal plan does not have the formal status of an ABC/A.

Restorative justice processes can be delivered by all the Restorative Justice Services. However, *Family Led Decision-Making* (in the context of ABC/As) can only be delivered by a Restorative Justice Service if it has received specific training in how to facilitate an FGC. Given the additional time and resources involved, this service normally requires a contractual basis with the local authority.

Before setting out the protocol for ASB a brief explanation regarding paragraph 2 (below) may be necessary. By the time an ASB Team brings a case involving anti-social behaviour to the attention of a Restorative Justice Service, it will normally have involved a repeated pattern of behaviour, over a period of time, directed against the same individual or group, some of whom may be in their own family.¹ This can create significant vulnerability, anxiety and distress in those affected. Indeed, some may wish to make their complaint in confidence, so as to avoid any retaliation, hostility or harassment.

The problem is that a Restorative Justice Service normally begins a restorative justice process by meeting with the person responsible, so as to establish their willingness and suitability. (This is so as to avoid re-victimising the person harmed should the person responsible prove to be either unwilling or unsuitable). RJS workers would normally avoid directly revealing the identity of the person harmed to the person responsible at this early stage; but there will be some cases in which the nature of the incident makes that almost impossible. For this reason, the ASB Team will need to consult with the person harmed to see whether they have any such concerns *before* the RJS approaches the person responsible (see paragraph 2 of the protocol). During this consultation, the ASB Team should take care to ensure that the person harmed is not led to expect that a restorative justice process will or is likely to take place and that they therefore need to make a decision, at this point, about whether or not they want to see an RJ worker or participate in a restorative justice process. This option should only be presented to the person harmed once the RJS has assessed the person responsible as willing and suitable.

3.4.2 Protocol for ASB

1. The ASB Team assesses that the case meets the criteria for the use of a Restorative Justice Service (see Sect. 2).
2. If the person harmed has expressed a concern about their identity as the 'complainant' being known to the person responsible, then the ASB Team will inform the person harmed:
 - (a) that the ASB Team will endeavour to ensure that their identity remains confidential until they have made a decision about whether they would be open to taking part in an intervention that may involve revealing their identity to the person responsible, e.g. being a witness in court, mediation or a restorative justice process;
 - (b) that whether or not they choose to participate in such an intervention, other support processes and protective measures will still be available;
 - (c) that the ASB Team will support and respect their decision regarding confidentiality, so far as that is possible given the circumstances of the case;
 - (d) whether or to what extent retaining confidentiality will limit the range of interventions that can be used in relation to the person responsible for the anti-social behaviour;
 - (e) that a restorative justice process involving communication with the person responsible is only one possibility in a range of other options at this point.

¹ A person engages in antisocial behaviour if they: "act in a manner that causes or is likely to cause alarm or distress; or pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household as them". Antisocial Behaviour ... Scotland) [Act] 2004

3. If the ASB Team are satisfied that the person harmed is open to taking part in an intervention that may involve revealing their identity to the person responsible, then they will allocate staff member(s) to coordinate the case to its conclusion and request a report from the RJS on the suitability of the person responsible for participating in a restorative justice process in relation to the incident.¹
 - (a) The decision to request such a report from the RJS may be made after discussion with the RJS.
 - (b) Such a report will contain an assessment of the willingness of the person responsible to engage with the RJS and his/her current motivation to change and willingness to co-operate in a restorative justice process.
 - (c) Where the RJS is also able to facilitate a Family Led Decision-Making process, the ASB team may request that this report include an assessment of the willingness and suitability of the person responsible and his/her family to engage with such a process.
 - (d) The time-scale for submitting such a report will be up to 20 working days from the ASB Team's request. If more time is needed to complete the assessment, then an interim report will be submitted within 20 days.
 - (e) The ASB Team will have the option of requesting such a report in addition to, or as an alternative to, requesting the involvement of other services, so that the child or young person gets the help they need when they need it
 - (f) If the ASB Team requests additional services, they will advise both the RJS and those additional services of the fact that they have been requested with a view to facilitating the co-ordination of work with the person responsible between the RJS and the additional services. (It is recognised that these additional services and the RJS may be provided by one and the same organisation).

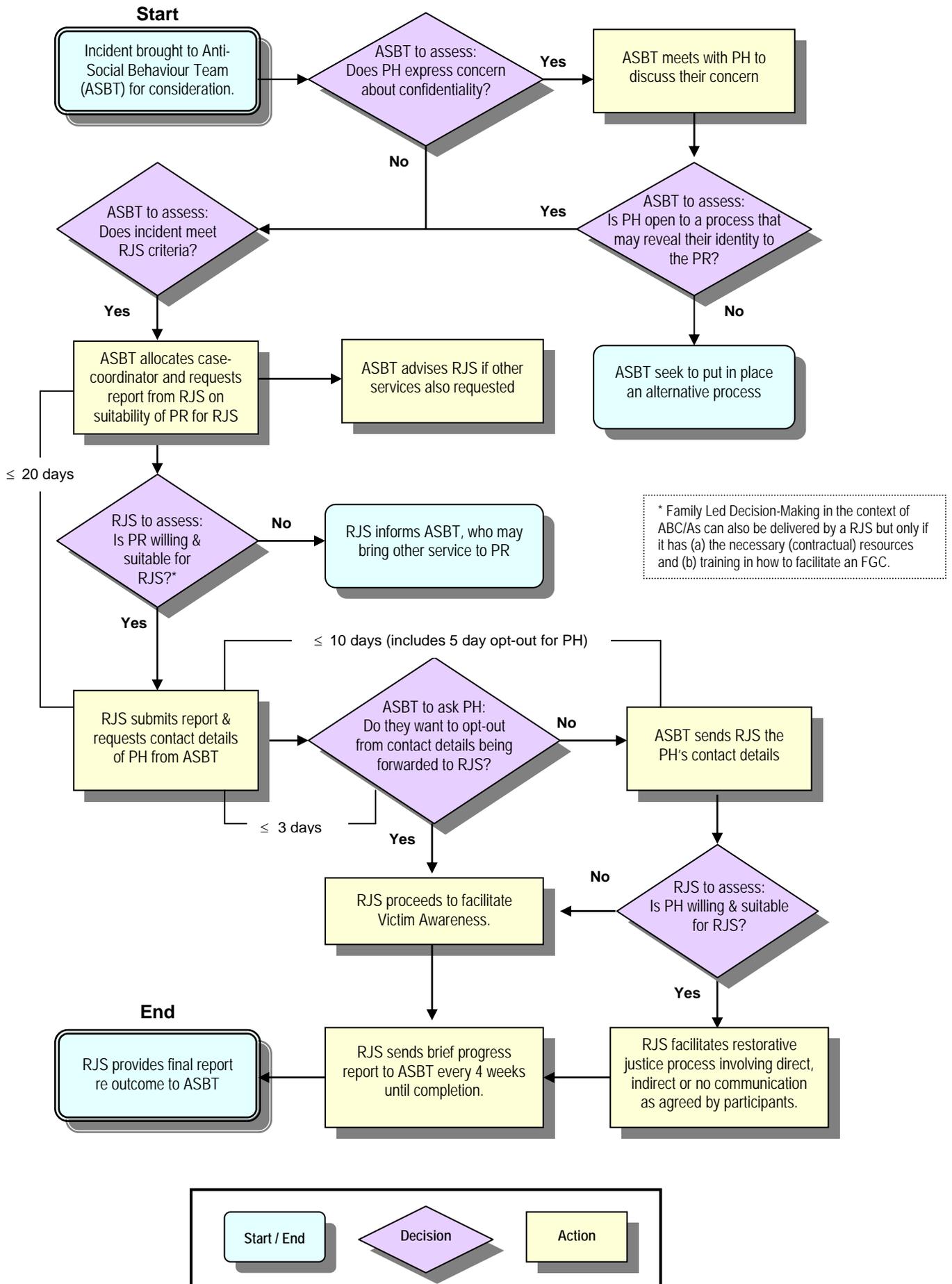
4. In requesting a report from the RJS as described in paragraph 2, the ASB Team will provide the RJS with information regarding:
 - (a) the age of the person responsible;
 - (b) the name, address and, if possible, telephone details of the person responsible and his or her parents or guardians;
 - (c) the date, time and nature of the incident;
 - (d) the existence and age of any co-accused;
 - (e) the extent of any damage or harm caused to an identifiable person(s) and/or other affected persons;
 - (f) any risk factors associated with the person responsible and his or her family situation;
 - (g) the involvement of relevant agencies, if known; and
 - (h) any previous participation by the person responsible in any restorative justice process.

5. (a) If the RJS assess that the person responsible is suitable for participating in a restorative justice process, and is willing to participate, and, if the child is under 16, their parents or guardians agree with and support their child's participation or do not actively oppose it, then the RJS will proceed to offer that service.

¹ For details on what is involved in this initial assessment, see Section 1.C of the "Best Practice Guidance (Scotland)".

- (b) If the RJS do proceed with a restorative justice process, the RJS will submit the report requested in terms of paragraph 2 and request from the ASB Team contact details of the person harmed by the incident.
 - (c) Within 3 working days of the request from the RJS, the ASB Team will write to the person harmed to inform them that the ASB Team will pass the name and address of the person harmed to the RJS in order that the RJS may contact him/her, if the person harmed has not contacted the ASB Team within 5 working days of the letter being sent.
 - (d) If within 5 working days of the letter being sent, the person harmed does not contact the ASB Team to indicate that he/she does not consent to their details being passed to the RJS, the ASB Team will provide the RJS with his/her name and address within 10 working days of the original request by the RJS.
 - (e) The form of the restorative justice process to be offered (e.g. Restorative Justice Conference, Face-to-Face Meeting, Shuttle Dialogue, Restorative FGC, Victim Awareness or Support for Persons Harmed) will be agreed between the person responsible, his/her parents, and the person harmed in accordance with Section 1 of this document and the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.
6. If the RJS assesses that the person responsible and his/her family are suitable for participating in a Family Led Decision-Making process, and are willing to participate, and, if the child is under 16, parental or guardian consent has been obtained, then the RJS may proceed to offer that service. In this instance, the RJS will ensure that this assessment is included in the report that it submits to the ASB Team as specified in paragraph 2.
7. If, despite having agreed to participate in a restorative justice process, the person responsible does not cooperate or accept responsibility during the process, then
- (a) the facilitator will meet with them privately to see if the issue can be resolved;
 - (b) if it cannot be resolved, then the process may have to be terminated, and the ASB Team may initiate an alternative approach.
8. If those who participated in a restorative justice process fail to keep their agreements, then
- (a) the ASB Team may contact the restorative facilitator for a follow-up meeting with them, to see if the matter can be resolved;
 - (b) if it cannot be resolved, then the ASB Team may initiate an alternative approach.
9. A brief progress report will be submitted by the RJS to the ASB Team every 4 weeks from the time they receive the details of the person harmed. The final report provided by the RJS will give details regarding the work carried out.

RJS Procedures for ASB Team



3.5 Schools

The following procedures are intended to outline what is expected from schools and Restorative Justice Services when schools decide to employ those services.. These procedures are designed for use by those responsible for making decisions in relation to incidents that occur in a school context. For the purposes of these protocols, those who hold this decision-making responsibility will simply be called 'The School'.

3.5.1 The Use of Restorative Justice Services in a School Context

The Restorative Justice Services referred to in this section are distinct from the day to day use of restorative practices in schools. Restorative practices in an educational context are defined as "restoring good relationships when there has been conflict or harm; and, developing school ethos, policies and procedures to reduce the possibility of such conflict and harm arising" (*Restorative Practices in three local authorities, Evaluation of pilot projects 2004-2006*, Scottish Executive, 2007). Schools will have their own behavioural policies and a wide range of approaches to promoting positive behaviour including preventing conflict, facilitating conflict resolution and dealing with incidents where harm has been caused. This can include the use of restorative practices as a whole school approach. In this context, these procedures are intended for use where a school is considering whether and when to employ external Restorative Justice Services.

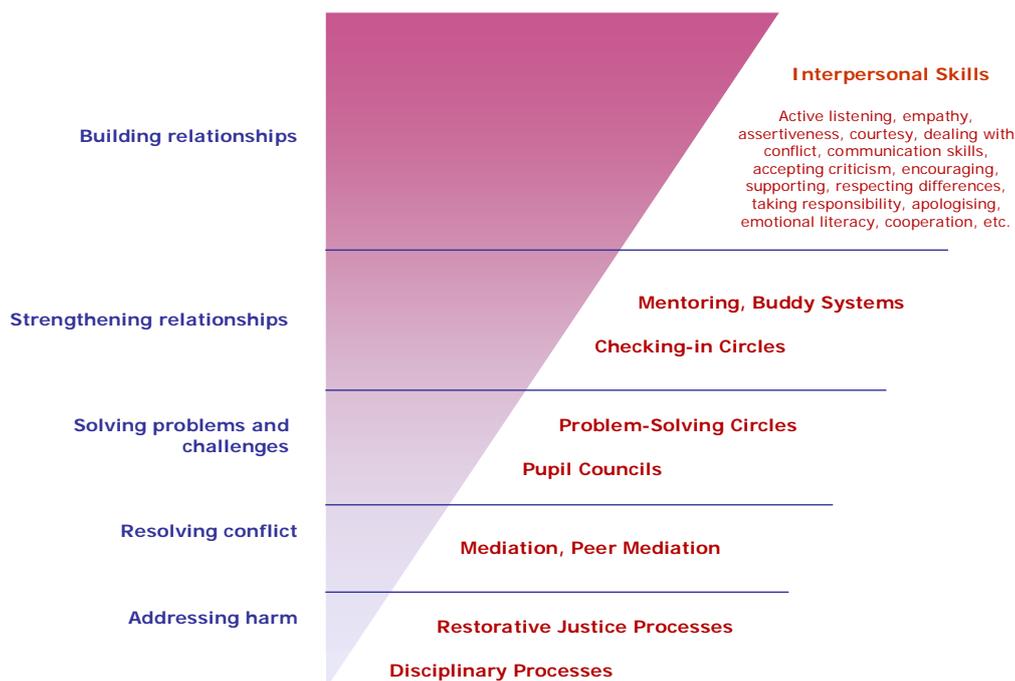
Restorative Justice Services (RJS) are most likely to be brought in by the school when:

1. an incident¹ has occurred in the school that involves an individual or group causing harm to another individual or group; and
2. the school wishes to use a restorative justice process to respond to this incident; but
 - the school does not yet have (a) staff members who are trained to deliver the kind of restorative justice processes that might be required for this level of harm; or (b) the time and resources required to deliver such processes; or
 - the school feels that the incident is so complex or serious that it requires an independent agency to facilitate a restorative justice process.

It will be noted, in this context, that there is now evidence to suggest that the use of restorative justice processes to address specific, isolated incidents in a school context is most likely to be effective when the school is working toward incorporating into its culture or ethos a wide range of relational approaches, such as interpersonal skills, mentoring, circle-time, pupil councils, peer mediation, and so on. The diagramme below provides an example of this kind of relational framework.²

¹ The term 'incident' here can refer to isolated misconduct or a pattern of misconduct that, over a period of time, has been directed against the same individual or group.

² See, e.g., L. W. Sherman and Heather Strang, "Restorative Justice: the evidence" (The Smith Institute, 2007): p. 55.



3.5.2 Protocol for Schools when employing RJS

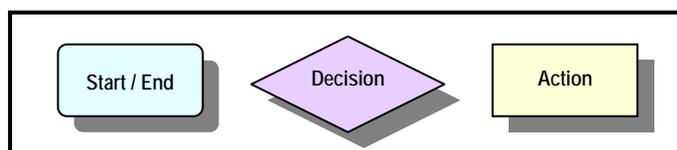
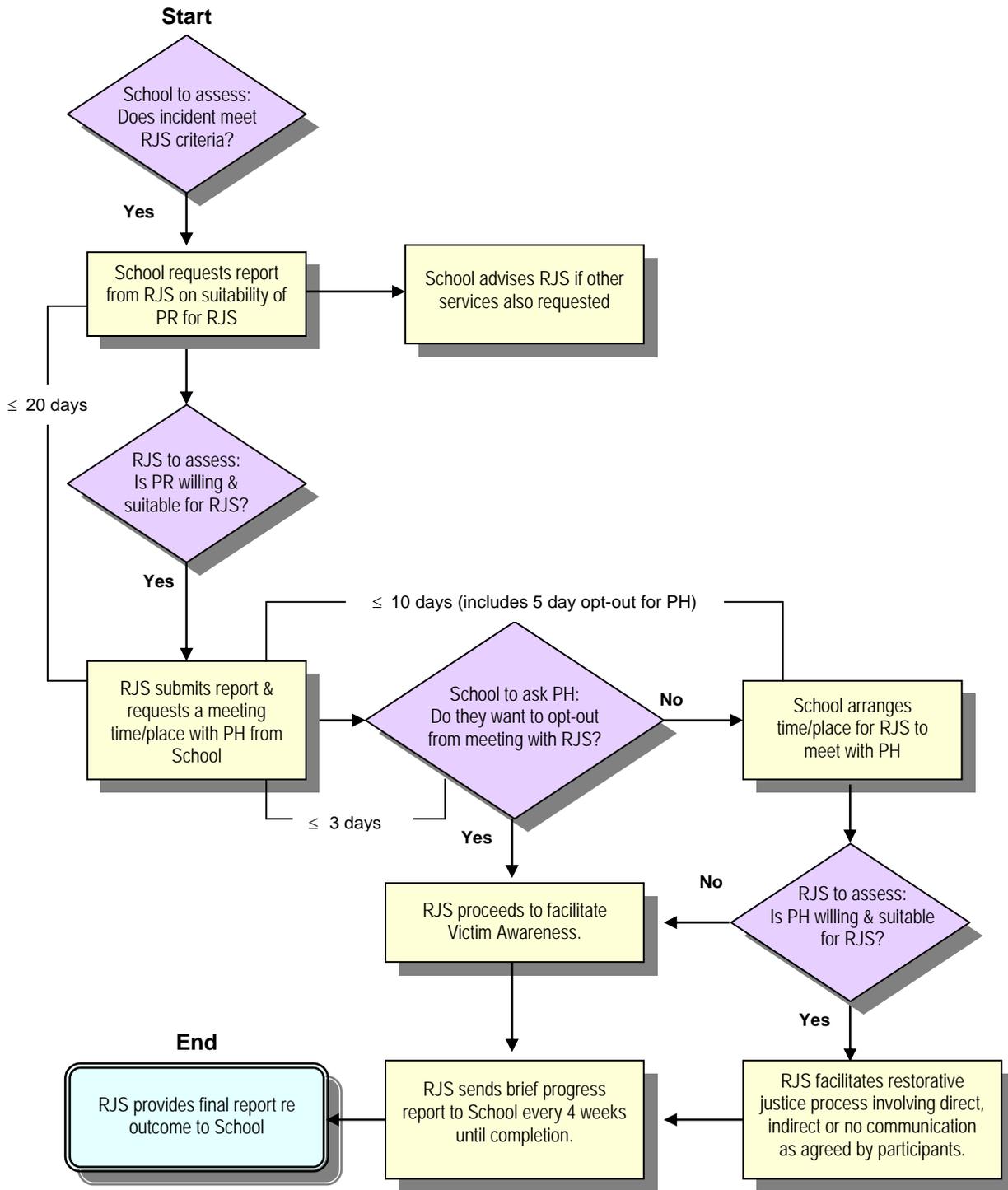
1. In contacting the RJS, the school will provide the RJS with either (a) a separate time and private room in which they can meet the person responsible at the school, or (b) with their permission, the names, addresses and, if possible, telephone details of the person responsible and their parents or guardians.
2. The school will request a report from the RJS on the suitability of the person responsible for participating in a Restorative Justice Service in relation to the incident.¹
 - (a) The decision to request such a report from the RJS may be made after discussion with the RJS.
 - (b) Such a report will contain an assessment of the willingness of the person responsible to engage with the RJS and his/her current motivation to change and willingness to co-operate.
 - (c) The time-scale for submitting such a report will be up to 20 working days from the school's request. If more time is needed to complete the assessment, then an interim report will be submitted within 20 days.
 - (d) The school will have the option of requesting such a report in addition to, or as an alternative to, requesting the involvement of other services mentioned in paragraph 2 above.
 - (e) If the school requests additional services, they will advise both the RJS and those additional services of the fact that they have been requested with a view to facilitating the co-ordination of work with the person responsible between the RJS and the additional services. (It is recognised that these additional services and the RJS may be provided by one and the same organisation).

¹ For details on what is involved in this initial assessment, see Section 1.C of the "Best Practice Guidance (Scotland)".

3. To ensure that the RJS has adequate background information before meeting the person responsible, the School will provide the RJS with information regarding:
 - (a) the names and ages of all those involved;
 - (b) the date, time and nature of the incident;
 - (c) the extent of the damage or harm caused to those harmed and other affected persons;
 - (d) any risk factors associated with those involved and their family situations;
 - (e) the involvement of relevant agencies, if known; and
 - (f) any previous participation by the person responsible in a restorative justice process.
4. If the RJS assess that the person responsible is suitable for participating in the Restorative Justice Service, and is willing to participate, and, if the child is under 16, their parents or guardians agree with and support their child's participation or do not actively oppose it, then the RJS may proceed to offer that service to the person responsible and submit the report requested in terms of paragraph 2.
5. The RJS will request that the school ask the person harmed whether they would like to meet with the RJS to discuss the possibility of a restorative justice process.
6. Within 3 working days of the request from the RJS, the school will meet with the person harmed to discuss whether or not they want to meet with the RJS. The aim of this meeting will be to let the person harmed know:
 - (a) why a restorative justice process might be suitable in this case;
 - (b) that their participation in a restorative justice process is entirely voluntary;
 - (c) basic information relating to what can happen in a restorative justice process, as provided by the RJS;
 - (d) that deciding to meet with a worker from the RJS does not commit them to participating in a restorative justice process;
 - (e) that whether or not they choose to participate in a restorative justice process, other processes will still be in place, for example, protective measures (monitoring, reviews, etc.) and individual support (e.g. counselling, circles of support);
 - (f) what the school's position is with respect to taking disciplinary action in this case, and what that action will or could be: that is, the person harmed needs to know whether their participation in a restorative justice process will be (i) an *alternative* to or (ii) *as well as* disciplinary action; and if the latter, whether the restorative justice process will take place *before, alongside or after* disciplinary action;
 - (g) that they do not need to make a decision immediately: they can take up to 5 working days, and, where possible, should consult with their parents or guardians;
 - (h) that the school will support and respect their decisions.
7. If the person harmed decides to meet with the RJS, the school will – within 10 working days of the original request by the RJS – provide either (i) a separate time and private room in which they can meet the person harmed at the school, or (ii) with their permission, the names, addresses and, if possible, telephone details of the person harmed and their parents or guardians.

8. The form of the Restorative Justice Service to be offered (e.g. Restorative Justice Conference, Face-to-Face Meeting, Shuttle Dialogue, Victim Awareness or Support for Persons Harmed) will be agreed between the person responsible, his/her parents, and the person harmed in accordance with Section 1 of this document and the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.
9. If, despite having agreed to participate in a restorative justice process, the person responsible does not cooperate or accept responsibility during the process, then
 - (a) the facilitator will meet with them privately to see if the issue can be resolved;
 - (b) if it cannot be resolved, then the process may have to be terminated, and the school may initiate an alternative approach.
10. If those who participated in a restorative justice process fail to keep their agreements, then
 - (a) the school may contact the restorative facilitator for a follow-up meeting with them, to see if the matter can be resolved;
 - (b) if it cannot be resolved, then the school may initiate an alternative approach.
11. A brief progress report will be submitted by the RJS to the school every 4 weeks from the time they receive the details of the person harmed. The final report provided by the RJS will give details regarding the work carried out.

RJS Procedures for Schools



3.6 Residential Child Care Settings

The following procedures are designed for the use of Restorative Justice Services by those responsible for making decisions in relation to accommodated children and young people.

For the purposes of these protocols, the body that holds this decision-making responsibility will be called the 'residence'. Likewise, since the same protocols apply, to Residential Child Care settings, these institutions will, for the purposes of these protocols, also be referred to as 'residences'.

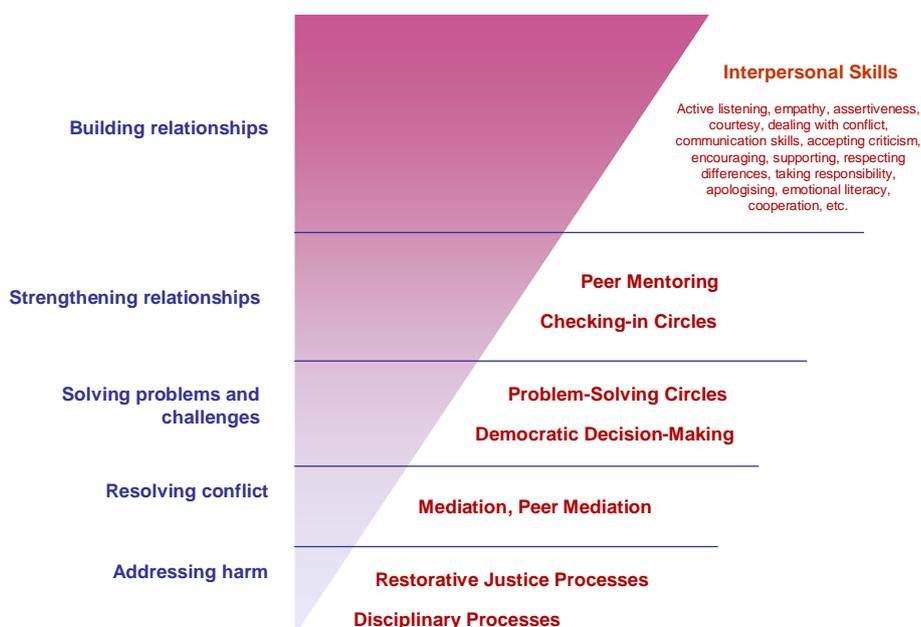
3.6.1 The Use of Restorative Justice Services for Residences

Restorative Justice Services (RJS) can be used to address an incident¹ that has caused harm in the context of accommodated children and young people in the following situations:

- Where those responsible have caused harm to an individual or group *within the residence*;
- Where those responsible have caused harm to an individual or group *outwith the residence* (whether prior to or during the period of their accommodation).

The residence may request that an RJS facilitate a restorative justice process in relation to these kinds of incidents: where (a) the residence decides that it does not have the time and resources or staff members who are trained to deliver the kind of restorative justice processes that might be required for this level of harm; and where (b) the residence decides that the incident is so complex or serious that it requires an independent agency to facilitate a restorative justice process.

It will be noted, in this context, that the use of restorative justice processes to address specific, isolated incidents in a residential context is most likely to be effective when the residence is working toward incorporating into its culture or ethos a wide range of relational approaches, such as interpersonal skills, peer mentoring, circles, democratic decision-making, mediation, and so on. The diagramme below provides an example of this kind of 'relational framework'.



¹ The term 'incident' here can refer to isolated misconduct or a pattern of misconduct that, over a period of time, has been directed against the same individual or group.

Before setting out the protocols, a brief explanation may be helpful:

1. Reflecting the two types of situations described above, there are two main sets of protocols: **Internal Protocols** are for incidents that occur *within* the residence; and **External Protocols** are for incidents that occur *outwith* the residence.
2. There are two parts to the *Internal Protocols*. The first part contains **procedural recommendations**: these outline the steps that a residence might wish to take when responding to an incident that has caused harm within the residence, prior to bringing in a Restorative Justice Service. These recommendations are included to take account of the fact that how a residence immediately responds to such an incident can have a significant affect on the safety and effectiveness of any subsequent restorative justice process. The second part relates to the **procedural inter-connections** between the residence and a Restorative Justice Service, including their respective roles and responsibilities.
3. There are cases where someone in the residence will report – in confidence – that they have been and/or still are being harmed by someone else (e.g. ongoing verbal abuse, threats of violence, intimidation, theft or property damage, hitting or kicking, etc.). In such cases, the person who has made the report may wish to ensure that their identity is not revealed to those responsible, primarily so as to avoid any retaliation or an increase in the level or kinds of harm they have been experiencing. This kind of situation can create significant vulnerability, anxiety and distress in those affected; hence their needs and wishes need to be taken into special consideration in how the residence responds. The problem is that a Restorative Justice Service normally begins a restorative justice process by meeting with the person responsible, so as to establish their willingness and suitability. (This is so as to avoid re-victimising the person harmed should the person responsible prove to be either unwilling or unsuitable). RJS workers would normally avoid directly revealing the identity of the person harmed to the person responsible at this early stage; but there will be some cases in which the nature of the incident makes that almost impossible. For this reason, the residence will need to consult with the person harmed about any such concerns they might have *before* the RJS is asked to approach the person responsible (see paragraph 3 of the protocol). During this consultation, the residence should take care to ensure that the person harmed is not led to expect that a restorative justice process will or is likely to take place and that they therefore need to make a decision, at this point, about whether or not they want to see an RJ worker or participate in a restorative justice process. This option should only be presented to the person harmed once the RJS has assessed the person responsible as willing and suitable.
4. There will invariably be cases in which those involved in an incident are, to some extent, both 'responsible' and 'harmed'. This is most likely to occur when a conflict, dispute or disagreement has escalated to such an extent that those involved end up causing significant harm to each other. It may also occur when someone who has been harmed (e.g. by bullying) decides to fight back or retaliate. Sometimes it will be clear from the outset who was *primarily* or *ultimately* responsible for the incident in question (e.g. it was they who initiated or provoked the fight). In other cases, it will seem that all those involved were, more or less, *equally* responsible. These judgements may need to be revised as more information comes to light. Even so, it still follows that the clear-cut distinction between those 'responsible' and those 'harmed' is not applicable: to a greater or lesser degree, *both* need to take responsibility for their part in causing harm and *both* need to have whatever harm they have experienced addressed or repaired. In terms of the procedures, this means that, for such cases, any reference to the 'person responsible' or the 'person harmed' in paragraphs 1-9 of the internal protocols will be read as 'all those involved' (i.e. those who were both responsible and harmed). Paragraph 3 is unlikely to apply in such a case, but could easily be adapted to fit situations in which 'one of those involved has reported the incident, in confidence, to the residence'. Paragraphs 10-12 can be omitted altogether, since the relevant action will already have taken place.

3.6.2 Internal Protocol for Residences

1. If an incident involving harm¹ comes to the attention of the residence, then the residence will:
 - (a) provide immediate emotional support to the person harmed
 - (b) take action to remove the risk of further harm occurring (e.g. separating those involved, closer monitoring of those responsible, etc.), *especially* if the person harmed has expressed a concern about the threat of retaliation, hostility or harassment from others who were involved and/or those associated with him/her;
 - (b) encourage and enable the person harmed to gain additional support from guidance staff or counsellors, parents and friends (e.g. 'Circle of Support')

2. In considering the possibility of bringing in a Restorative Justice Service, the residence will take into account the following:
 - (a) whether the relationship and trust between the person responsible and the residence is potentially retrievable;
 - (b) whether the case meets the criteria for the use of a Restorative Justice Service (see Sect. 2); in particular, whether bringing in a Restorative Justice Service is appropriate for the level of harm;
 - (c) whether staff members within the residence have been trained to provide appropriate support to individuals during and after they engage in a restorative justice process;
 - (d) whether those involved have been risk/health assessed so as to ensure that their underlying needs (e.g. ADHD issues) are addressed alongside the restorative justice process.

3. If the person harmed has, from the outset, expressed a concern about the person responsible discovering they have reported this incident (and the residence assesses that the incident, at this stage, merits an intervention that would not require the identity of the person harmed to be revealed to the person responsible) then the residence will meet with the person harmed to let them know:
 - (a) that the residence will endeavour to ensure that their identity remains confidential until they have made a decision about whether they would be open to taking part in an intervention that may involve revealing their identity to the person responsible (e.g. being a witness in a disciplinary process, participating a restorative justice process, etc.);
 - (b) that interim measures will be put in place to protect them from further harm, without revealing their identity (e.g. closer monitoring of those responsible, etc.);
 - (c) whether, or to what extent, retaining confidentiality will limit the range of interventions that can be used in relation to the person responsible;
 - (d) that the residence will support and respect their decision regarding confidentiality, so far as that is possible given the circumstances of the case.
 - (e) that, at this point, a restorative justice process involving communication with the person responsible is only one possibility in a range of other options;

¹ These protocols include incidents in which staff members (either individuals or groups) have been harmed.

- (f) that, if the person harmed decides to proceed, the residence will keep them and their parents or guardians informed about what intervention is being implemented and its progress.
4. If the residence is satisfied that the person harmed is open to taking part in an intervention that involves revealing their identity to the person responsible, or if revealing the identity of the person harmed was never an issue from the outset, then the residence will approach the person responsible to discuss the possibility of speaking with an RJS worker. The aim of this meeting is to ensure that they understand:
 - (a) why a restorative justice process might be suitable in this case;
 - (b) that their participation in a restorative justice process is entirely voluntary;
 - (c) basic information relating to what can happen in a restorative justice process, as provided by the RJS;
 - (d) that deciding to meet with a worker from the RJS does not commit them to participating in a restorative justice process;
 - (e) that whether or not they choose to participate in a restorative justice process, other processes will still be in place, for example, protective measures (monitoring, reviews, etc.) and individual support (e.g. counselling, anger management);
 - (f) what the residence's position is with respect to taking disciplinary or legal action in this case, and what that action will or could be: that is, the person responsible needs to know whether their participation in a restorative justice process will be (i) an *alternative* to or (ii) *as well as* disciplinary or legal action; and if the latter, whether the restorative justice process will take place *before, alongside or after* disciplinary or legal action;
 - (g) that they do not need to make a decision immediately: they can take up to 5 working days, and, where possible, should consult with their parents or guardians;
 - (h) that the residence will support and respect their decisions.
 5. If the person responsible decides that they do want to speak to a worker from the RJS, the residence will
 - (a) allocate staff member(s) to coordinate the case to its conclusion; and
 - (b) contact the Restorative Justice Service, so that they can allocate a suitable restorative facilitator to the case.

Procedural Inter-Connections

6. In contacting the RJS, the residence will provide the RJS with (a) a separate time and private room in which they can meet the person responsible at the residence, and (b) if necessary, and with their permission, the names, addresses and, if possible, telephone details of the parents or guardians of the person responsible.
7. The residence will request a report from the RJS on the suitability of the person responsible for participating in a Restorative Justice Service in relation to the incident.¹
 - (a) The decision to request such a report from the RJS may be made after discussion with the RJS.

¹ For details on what is involved in this initial assessment, see Section 1.C of the "Best Practice Guidance (Scotland)".

- (b) Such a report will contain an assessment of the willingness of the person responsible to engage with the RJS and his/her current motivation to change and willingness to co-operate.
 - (c) The time-scale for submitting such a report will be up to 20 working days from the residence's request. If more time is needed to complete the assessment, then an interim report will be submitted within 20 days.
 - (d) The residence will have the option of requesting such a report in addition to, or as an alternative to, requesting the involvement of other services mentioned in paragraph 2 above.
 - (e) If the residence requests additional services, they will advise both the RJS and those additional services of the fact that they have been requested with a view to facilitating the co-ordination of work with the person responsible between the RJS and the additional services. (It is recognised that these additional services and the RJS may be provided by one and the same organisation).
8. To ensure that the RJS has adequate background information before meeting the person responsible, the Residence will provide the RJS with information regarding:
- (a) the names and ages of all those involved;
 - (b) the date, time and nature of the incident;
 - (c) the extent of the damage or harm caused to those harmed and other affected persons;
 - (d) any risk factors associated with those involved and their family situations;
 - (e) the involvement of relevant agencies, if known; and
 - (f) any previous participation by the person responsible in a restorative justice process.
- 9 If the RJS assess that the person responsible is suitable for participating in the Restorative Justice Service, and is willing to participate, and, if the child is under 16, their parents or guardians agree with and support their child's participation or do not actively oppose it, then the RJS may proceed to offer that service to the person responsible and submit the report requested in terms of paragraph 7.
- 10 The RJS will then request that the residence ask the person harmed whether they would like to meet with the RJS to discuss the possibility of a restorative justice process.
- 11 Within 3 working days of the request from the RJS, the residence will meet with the person harmed to discuss whether or not they want to meet with the RJS. The aim of this meeting will be to let the person harmed know:
- (a) why a restorative justice process might be suitable in this case;
 - (b) that their participation in a restorative justice process is entirely voluntary;
 - (c) basic information relating to what can happen in a restorative justice process, as provided by the RJS;
 - (d) that deciding to meet with a worker from the RJS does not commit them to participating in a restorative justice process;
 - (e) that whether or not they choose to participate in a restorative justice process, other processes will still be in place, for example, protective measures (monitoring, reviews, etc.) and individual support (e.g. counselling);
 - (f) what the residence's position is with respect to taking disciplinary or legal action in this

- case, and what that action will or could be: that is, the person harmed needs to know whether their participation in a restorative justice process will be (i) an *alternative* to or (ii) *as well as* disciplinary or legal action; and if the latter, whether the restorative justice process will take place *before, alongside or after* disciplinary or legal action;
- (g) that they do not need to make a decision immediately: they can take up to 5 working days, and, where possible, should consult with their parents or guardians;
- (h) that the residence will support and respect their decisions.
12. If the person harmed decides to meet with the RJS, the residence will - within 10 working days of the original request by the RJS - provide (i) a separate time and private room in which they can meet the person harmed at the residence, and (ii) where necessary, and with their permission, the names, addresses and, if possible, telephone details of the parents or guardians of the person harmed.
13. The form of the Restorative Justice Service to be offered (e.g. Restorative Justice Conference, Face-to-Face Meeting, Shuttle Dialogue, Victim Awareness or Support for Persons Harmed) will be agreed between the person responsible, his/her parents, and the person harmed in accordance with Section 1 of this document and the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.
14. If, despite having agreed to participate in a restorative justice process, the person responsible does not cooperate or accept responsibility during the process, then
- (a) the facilitator will meet with them privately to see if the issue can be resolved;
- (b) if it cannot be resolved, then the process may have to be terminated, and the residence may initiate an alternative approach.
15. If those who participated in a restorative justice process fail to keep their agreements, then
- (a) the residence may contact the restorative facilitator for a follow-up meeting with them, to see if the matter can be resolved;
- (b) if it cannot be resolved, then the residence may initiate an alternative approach.
16. A brief progress report will be submitted by the RJS to the residence every 4 weeks from the time they receive the details of the person harmed. The final report provided by the RJS will give details regarding the work carried out.

3.6.3 External Protocol for Residences

The following procedure is to be followed in relation to the use of Restorative Justice Services (RJS) by residential schools and secure care units to address an incident in which an accommodated child or young person has caused harm to an individual or group *outwith* the residence, either before or during the period of their accommodation.

1. The residence assesses that the case meets the criteria for the use of a Restorative Justice Service (see Sect. 2).

2. The residence will, prior to contacting the RJS, liaise with a relevant authority (Police, Reporter or Procurator Fiscal), so as to ensure that the RJS can – either from the residence itself or from an authority nominated by the residence – obtain the kind of information that it will need in order to process the case: that is,
 - (a) background information relating to the person responsible (paragraph 4);
 - (b) the nature of the incident and its affects (paragraph 4); and
 - (c) the contact details of the person harmed (paragraph 7).
3. The residence will then allocate staff member(s) to coordinate the case to its conclusion; and request a report from the RJS on the suitability of the person responsible for participating in a Restorative Justice Service in relation to the incident.¹
 - (a) The decision to request such a report from the RJS may be made after discussion with the RJS.
 - (b) Such a report will contain an assessment of the willingness of the person responsible to engage with the RJS and his/her current motivation to change and willingness to co-operate.
 - (c) The time-scale for submitting such a report will be up to 20 working days from the residence's request. If more time is needed to complete the assessment, then an interim report will be submitted within 20 days.
 - (d) The residence will have the option of requesting such a report in addition to, or as an alternative to, requesting the involvement of other services mentioned in paragraph 2 above.
 - (e) If the residence requests additional services to address this incident, they will advise both the RJS and those additional services of the fact that they have been requested with a view to facilitating the co-ordination of work with the person responsible between the RJS and the additional services. (It is recognised that these additional services and the RJS may be provided by one and the same organisation).
4. To ensure that the RJS has adequate background information regarding the incident before meeting with the person responsible, the residence (and/or an authority which the residence nominates) will provide the RJS with information regarding:
 - (a) the age of the person responsible;
 - (b) where appropriate, the name, address and, if possible, telephone details of the parents or guardians of the person responsible;
 - (c) the date, time and nature of the incident;
 - (d) the existence and age of any co-accused;
 - (e) the extent of any damage or harm caused to an identifiable person(s) and/or other affected persons;
 - (f) any risk factors associated with the person responsible and his or her family situation;
 - (g) the involvement of relevant agencies, if known; and
 - (h) any previous participation by the person responsible in any restorative justice process.

¹ For details on what is involved in this initial assessment, see Section 1.C of the "Best Practice Guidance (Scotland)".

5. The residence will provide the RJS with a time and a private room in which they can meet the person responsible at the residence.

6.
 - (a) If the RJS assess that the person responsible is suitable for participating in the Restorative Justice Service, and is willing to participate, and, if the child is under 16, their parents or guardians agree with and support their child's participation or do not actively oppose it, then the RJS may proceed to offer that service to the child or young person. In order to proceed with the service, the RJS will submit the report requested in terms of paragraph 3 and request from the residence (or from that authority which the residence nominates) the contact details of the person harmed by the incident.

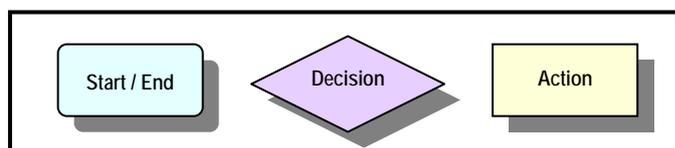
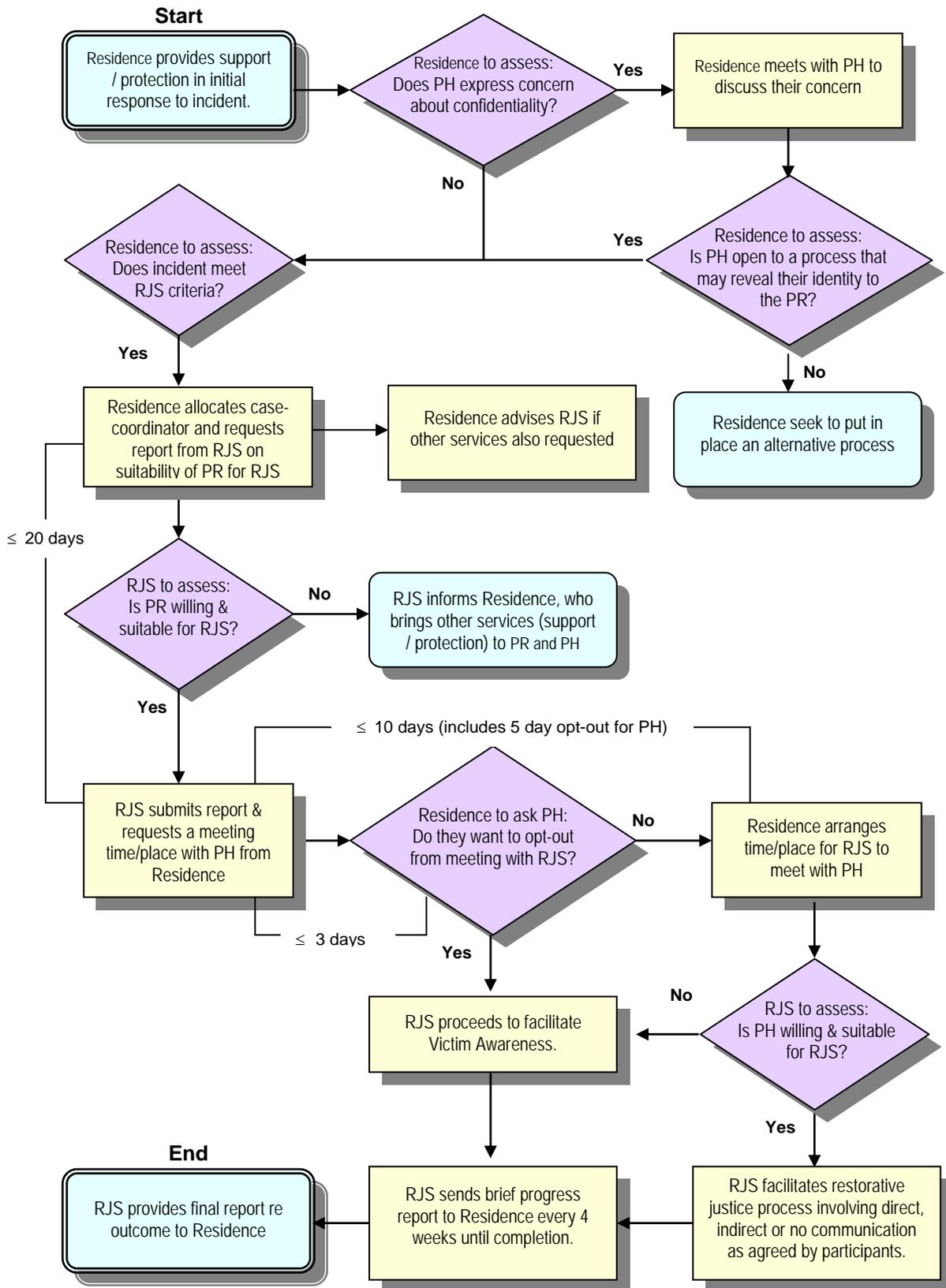
 - (b) Within 3 working days of the request from the RJS, the residence (or the nominated authority) will write to the person harmed to inform them that the residence (or the nominated authority) will pass the name and address of the person harmed to the RJS in order that the RJS may contact him/her, if the person harmed has not contacted the residence (or the nominated authority) within 5 working days of the letter being sent.

 - (c) If within 5 working days of the letter being sent, the person harmed does not contact the residence (or the nominated authority) to indicate that he/she does not consent to their details being passed to the RJS, the residence (or the nominated authority) will provide the RJS with his/her name and address within 10 working days of the original request by the RJS.

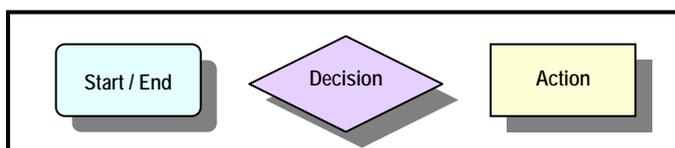
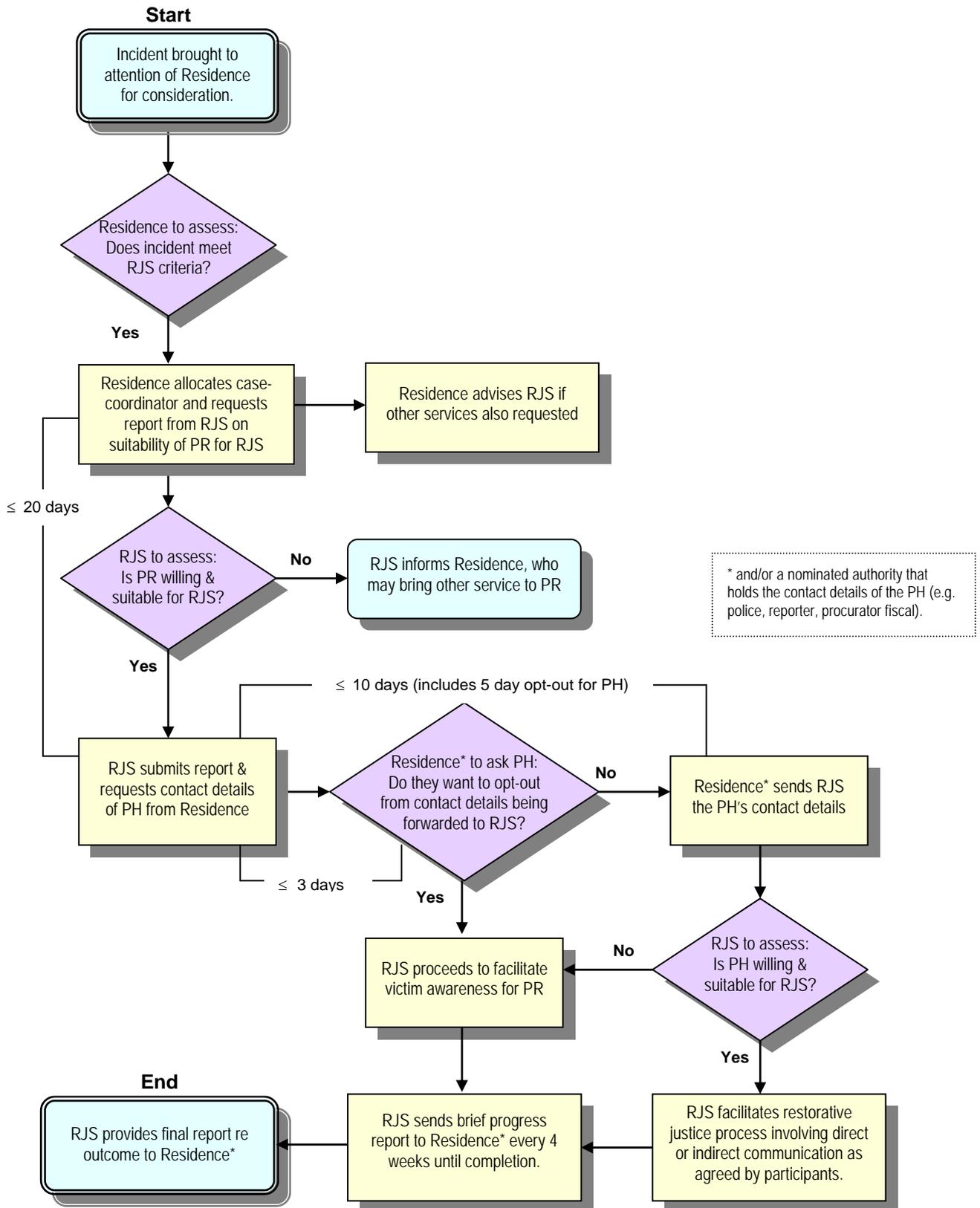
 - (d) The form of the Restorative Justice Service to be offered (e.g. Restorative Justice Conference, Face-to-Face Meeting, Shuttle Dialogue, Victim Awareness or Support for Persons Harmed) will be agreed between the person responsible, his/her parents, and the person harmed in accordance with Section 1 of this document and the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.

7. A brief progress report will be submitted by the RJS to the residence (and the nominated authority if required) every 4 weeks from the time they receive the details of the person harmed. The final report provided by the RJS will give details regarding the work carried out.

RJS Internal Procedures for Residences



RJS External Procedures for Residences



3.7 Social Work

The following procedures are designed for the use of Restorative Justice Services by social workers where it comes to their attention that the child or young person they are working with has been responsible for causing harm to another individual or group.

3.7.1 The Use of Restorative Justice Services by Social Workers

In considering whether or not to use a Restorative Justice Service, the social worker will take into account the following points:

1. If the incident in question occurs within any of the institutional contexts covered in the preceding protocols (i.e. school, residential child care settings); or if the social worker considers that it is in the best interests of the child or young person to report the incident to a relevant authority (e.g. ASB Team, a multi-agency group, the Children's Reporter), then the use of an RJS for that incident will normally proceed in accordance with the protocols that are relevant to that context or authority. In such cases, the social worker may recommend to the institution or authority in question that restorative justice processes be used in relation to that incident. However, the social worker may also use a RJS by following the procedures below.
2. The RJS will not be able to process the case unless the social worker can provide it with both (a) current background information relating to the child or young person (e.g. risk factors, previous participation in any restorative justice process, etc.); and, most importantly, (b) the contact details of the person harmed. With respect to the latter, a social worker will need to ensure that they can obtain these details, either from the child or young person and/or his or her family (e.g. the person harmed is a relative) or from a relevant authority (e.g. the police).

3.7.2 Protocols for Social Work

1. The social worker assesses that the case meets the criteria for the use of a Restorative Justice Service (see Sect. 2).
2. The social worker will, prior to contacting the RJS, ensure that they have access to the kind of information that the RJS will need in order to process the case either from the child or young person and/or his or her family, or by liaising with a relevant authority (e.g. Police) that holds that information: that is,
 - (a) current background information relating to the person responsible (paragraph 4);
 - (b) the nature of the incident and its affects (paragraph 4); and
 - (c) the contact details of the person harmed (paragraph 7).
3. The social worker will then request a report from the RJS on the suitability of the person responsible for participating in a Restorative Justice Service in relation to the incident.¹
 - (a) The decision to request such a report from the RJS may be made after discussion with the RJS.

¹ For details on what is involved in this initial assessment, see Section 1.C of the "Best Practice Guidance (Scotland)".

- (b) Such a report will contain an assessment of the willingness of the person responsible to engage with the RJS and his/her current motivation to change and willingness to co-operate.
 - (c) The time-scale for submitting such a report will be up to 20 working days from the social worker's request. If more time is needed to complete the assessment, then an interim report will be submitted within 20 days.
 - (d) The social worker will have the option of requesting such a report in addition to, or as an alternative to, requesting the involvement of other services mentioned in paragraph 2 above.
 - (e) If the social worker requests additional services to address this incident, they will advise both the RJS and those additional services of the fact that they have been requested with a view to facilitating the co-ordination of work with the person responsible between the RJS and the additional services. (It is recognised that these additional services and the RJS may be provided by one and the same organisation).
4. To ensure that the RJS has adequate background information regarding the incident before meeting with the person responsible, the social worker will provide the RJS with information regarding:
- (a) the age of the person responsible;
 - (b) the name, address and, if possible, telephone details of the parents or guardians of the person responsible;
 - (c) the date, time and nature of the incident;
 - (d) the existence and age of any co-accused;
 - (e) the extent of any damage or harm caused to an identifiable person(s) and/or other affected persons;
 - (f) any risk factors associated with the person responsible and his or her family situation;
 - (g) the involvement of relevant agencies, if known; and
 - (h) any previous participation by the person responsible in any restorative justice process.
5. (a) If the RJS assess that the person responsible is suitable for participating in the Restorative Justice Service, and is willing to participate, and, if the child is under 16, their parents or guardians agree with and support their child's participation or do not actively oppose it, then the RJS may proceed to offer that service to the child or young person. In order to proceed with the service, the RJS will submit the report requested in terms of paragraph 3 and request from the social worker the contact details of the person harmed by the incident.
- (b) Within 3 working days of the request from the RJS, the social worker will write to or contact the person harmed to inform them that that they will pass the name and address of the person harmed to the RJS in order that the RJS may contact him/her, if the person harmed has not contacted the social worker within 5 working days of the letter being sent.
 - (c) If within 5 working days of the letter being sent or the initial contact being made, the person harmed does not contact the social worker to indicate that he/she does not consent to their details being passed to the RJS, the social worker will provide the RJS with his/her name and address within 10 working days of the original request by the RJS.

- (d) The form of the Restorative Justice Service to be offered (e.g. Restorative Justice Conference, Face-to-Face Meeting, Shuttle Dialogue, Victim Awareness or Support for Persons Harmed) will be agreed between the person responsible, his/her parents, and the person harmed in accordance with Section 1 of this document and the *Best Practice Guidance for Restorative Justice Practitioners (Scotland)*.
6. A brief progress report will be submitted by the RJS to the social worker (and the nominated authority if required) every 4 weeks from the time they receive the details of the person harmed. The final report provided by the RJS will give details regarding the work carried out.

RJS Procedures for Social Work

