Chapter 2

VICTIM-OFFENDER MEDIATION IN ENGLAND AND WALES

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1. OVERVIEW

1.1 Historical introduction

During the 1980s a wide range of community-based non-statutory projects were introduced in England and Wales which, broadly speaking, had as their primary objective the promotion of “better” alternatives to the criminal justice system. For this purpose, “better” embraced such secondary objectives as the reparation of the victim, mediation leading to reconciliation, victim assistance, diversion and reductions in (re)offending. In slightly different guises these are recognisably the objectives of the Restorative Justice movement (hereafter RJ) in England and Wales, which currently informs Home Office policy for the youth justice system. Within that policy, victim-offender mediation (hereafter VOM) comprises one of a number of methods by which offenders may come to make restoration to their victims.

The first systematic use of VOM for young offenders in England and Wales was made by the Exeter Youth Support Team in the early 1980s (Marshall, 1996; Crawford and Newburn, 2003). Much more frequent were diversion schemes. These were typically arrangements between the police and the local social services departments in which young offenders who

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were cautioned were invited to make direct or indirect reparation to the victim. Mediation appears as a little used possibility in one or two of these schemes.

In his 1984 review, Marshall identified altogether one (adult) community mediation scheme, four police-based reparation schemes (all juveniles), three court based reparation schemes (two juveniles), and 11 victim assistance repair or fund raising schemes (all adult) (Marshall, 1984). A year later Marshall and Walpole (1985) counted:

- six community dispute-resolution schemes (addressed to adults only),
- two police based mediation schemes (one juvenile: the Juvenile Mediation Project),
- six police juvenile panel reparation schemes (all diversion schemes, no mediation contemplated),
- five reparation within intermediate treatment projects (all young offenders),
- 15 probation run court based reparation schemes (all adults), and
- two other court based reparation projects (both adults).

As this shows, VOM figured very rarely within the youth justice system in the mid-1980s. Nevertheless, the substantial increase in the overall number of the schemes reviewed by Marshall and Walpole (19 in 1984, 36 in 1985), together with a more general acceptance within government of their possibilities prompted the Home Office to fund in 1985 four experimental projects over a two-year period. These were located in Coventry, Leeds, Wolverhampton and Cumbria. Their clients included adult offenders.

Alongside this funding, the Home Office commissioned evaluative research of these schemes (Davis et al., 1987). This demonstrated very clearly the conceptual, terminological and practical difficulties and inconsistencies that lie within the broad design and delivery of mediation and reparation. Many of the points made in later research papers can be found here: selection criteria, problems of resourcing, conflicting goals, degrees of co-operation from statutory agencies, volunteers/experts, net widening and voluntariness (see also Davis et al., 1988).

Important during this time was the greater emphasis that the voluntary organisations delivering mediation services placed on mediation as a process, rather than as a means of delivering a product, such as reparation or diversion. This shift was in part due to the work of FIRM (Forum for Initiatives in Reparation and Mediation) founded in 1984, later renamed Mediation UK, which was responsible for the development of good practice guidelines.