Talking as Restorative Justice: A Conversation Analysis of Victim-Offender Meetings

Rachel Langford

Centre for Social and Health Research
School of Health and Society
University of Salford

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Conversational Excerpts

Transcription Symbols

Symbol	Description
Transcription Symbols (Jefferson, 2004, p. 24-31)	
Symbol	Description
⌐Yeah¬ ∟Okay⌐	Overlapping talk
=	End of turn constructional unit and beginning of next between with no gap/pause in between
:::	Indicate a stretched sound
.hhh	In breath. Three letters indicate normal duration. Longer or shorter in breaths indicated with few or more letters
Hhh	Outbreath. Three letters indicate normal duration. Longer or shorter in breaths indicated with few or more letters
<u>Underlining</u>	Indicates emphasis
∘Word∘	Slightly quieter than surrounding speech by same speaker
(())	An entry requiring comment but without a symbol to explain it
(h)	Laughter in the conversation/speech
?	Sharp rising intonation
(.)	A micropause. A pause of no significant length
(0.5)	A timed pause, long enough to indicate a time
Word-	A dash indicates a cut off
CAPITALS	Louder or shouted words
↑	Rise in intonation
↓	Drop in intonation
£word£	Pound sign indicates smiley voice, or suppressed laughter

Acknowledgements

Abstract

The purpose of this research was to examine the restorative justice meeting as a form of institutional talk, identifying significant asymmetries in the talk, and acknowledging how this contributed to achieving restoration. This study used audio-recordings of five restorative justice meetings organised as victim-offender mediation sessions and including adult offenders. The recordings were transcribed and examined using the method of conversation analysis. Findings revealed that restorative justice meetings were framed by institutional talk. They were organised using specialised turn-taking procedures and pre-allocated roles. Facilitators asked questions and victims and offenders answered them. The answers given were assessed by facilitators for adequacy and accounts were persuasively re-narrated when they did not align with the objectives of the meeting. Asymmetry was demonstrated when the talk of offenders was heavily scrutinised and challenged by facilitators. The talk of victims was supported, they were asked open questions and given the opportunity to provide extended answers, allowing them to express themselves. A question was asked in the reparation phase that offenders interpreted as an invitation to apologise. Through the question-answer framework, some apologies were directed at victims and included a demonstration of remorse and received a response. Other apologies were directed at facilitators with no demonstration of remorse, resulting in no response from victims. These apologies were less effective because no response meant the apologies could not be accepted. These findings were further confirmed by the counterexample of Meeting Three where, because a victim did not attend, the meeting was less formally organised and resulted in restoration not being achieved. Overall, institutional talk, asymmetrical relationships between facilitators, victims and offenders and the attendance of the victim contributed to the achievement of the main objective of restorative justice for this scheme which was offender restoration.

Introduction

The Research Problem

Restorative justice is an alternative response to crime which is often claimed to be the opposite approach to criminal justice (Zehr, 2014). Criminal justice sees crime as 'a violation of the law and the state' whereas some restorative justice schemes see crime as a 'violation of people and relationships' (Zehr, 2014, p. 19). Restorative justice is arguably a needs-based approach (Sullivan and Tifft, 2001) that intends to provide equal concern for all participants involved (Braithwaite 1996; Doolin 2007; Sullivan and Tifft, 2001; Zehr, 2014), empowering victims and offenders by providing an arena whereby their stories can be heard (Braithwaite, 1996). The key objective of restorative justice is restoration (Braithwaite, 1996; Doolin, 2007; Zehr, 2014). For offenders this involves accepting responsibility, understanding the impact of their actions, and expressing shame or remorse (Retzinger & Scheff, 1996). For victims this involves being able to express how they feel about the crime and working towards forgiving offenders (Retzinger & Scheff, 1996).

The findings of previous social scientific investigations will be presented in Chapter Two. In brief, previous research has investigated the impact restorative justice has on rates of reoffending, whether conference dynamics impact recidivism, and the levels of satisfaction experienced by those involved in the process. The relevance of referring to them now highlights two points. Firstly, conference dynamics have the potential to impact outcomes such as rates of reoffending and levels of satisfaction. Secondly, conference dynamics are achieved through the dialogue of participants involved highlighting a need for research that examines the finer details of the talk. There has been a small body of research that has focused on examining the interaction of the facilitator, victim, and offender in the restorative justice process. These studies examined the restorative justice process as emotionally transformational, identified different conference types, saw the process as procedurally dynamic and examined power dynamics and role-taking adopted by participants.

The objective of restoration in the restorative justice process may be achieved through emotional exchanges, material repair or talk. Rossner and Jasmine (2018) argue that talk can achieve objectives even in the absence of emotional energy. The methods used to study talk

include discourse analysis and conversation analysis. Discourse analysis is concerned with the 'broader level' of language practices, examining displays of practical action in accounts and formulations (Wooffitt, 2005, p.7). Conversation analysis is concerned with the finer details of talk, examining how 'activities are accomplished' through 'patterned sequential structures' (Wooffitt, 2005, p.75). Conversation analysis was chosen as the most revealing method for this research to identify in what way the single objective of restoration was accomplished through the sequential structures of the interaction. The talk will be examined to see if offenders accept responsibility, understand the impact of their behaviour on others, and offer apologies and if victims are given the opportunity to express and demonstrate forgiveness. By examining the finer details of the talk, the project will highlight what works and what does not.

This project is interested in examining the talk of victims and offenders to see if equal treatment is provided and if they are awarded the opportunity to express themselves as advocates claim. Previous research (Gerkin, 2009; Jacobsson *et al.*, 2012) examined participation levels of those involved in the process, finding that offenders talked the least in comparison to the other participants. It is expected that power dynamics are not apparent in the process (Braithwaite, 1996) and yet these findings suggest otherwise. This project will develop a comparative analysis of the talk of victims and offenders, focusing specifically on how many questions each participant is asked, how these questions are constructed and how the answers given are responded to. The intention is to demonstrate whether the talk of victims and offenders is supported or restricted, identifying any differences in the way that victims and offenders are talked to. This will provide evidence that will counter or confirm power dynamics apparent in the process that were found by Gerkin (2009).

The core sequence of restorative justice is usually seen as apology-forgiveness (Retizinger & Scheff, 1996) and is part of the objective of restoration. This is an emerging standard that is expected to occur naturally (Braithwaite, 1996) but does not always happen. Hayes (2006) called for further research to be conducted that focused on the dialogue of victims and offenders to promote an understanding of why core sequences were not always achieved. This project intends to examine how apologies are constructed and whether this leads to demonstrations of forgiveness. Conversation analysis will illuminate why core sequences are effective or not, highlighting aspects of the interaction that have never been observed in this way before.

This research project included five recorded restorative justice meetings; all included at least a victim, offender, and facilitator except for one where a victim did not attend. Including this meeting will enable important insights and conclusions to be made about whether partial restoration can still occur without the presence of the victim and different apparent dynamics. Claims have been made that partial restoration can occur (Doolin, 2007; Zehr, 2014) if one participant does not attend the restorative justice meeting. I will apply the method of conversation analysis to examine whether the offender was successfully encouraged through talk to accept responsibility and demonstrate an understanding of the impact of their behaviour. There have been no studies conducted to date that use conversation analysis to examine the talk in restorative justice meetings where a victim is not present, which will provide interesting insight to the field of restorative justice research. This research will highlight characteristics of the restorative justice process at a conversational level, showing a different picture to previous research and methodologies used in this field.

Organisation of Chapters

In Chapter One, I shall begin by considering the broad concept of restorative justice and identifying the varying modalities of interaction. The principles, aims, and objectives of restorative justice will be considered alongside any problems that arise with these ideals.

Chapter Two will review social scientific investigations of restorative justice. I will start by evaluating a selection of studies from a larger body of research that examined the impact restorative justice had on rates of reoffending, whether procedural and restorative justice was present in the process and the level of satisfaction experienced by victims and offenders. I will then go on to examine a smaller body of research that focused on the restorative justice interaction. These studies examined the restorative justice process as emotionally transformational (Rossner, 2011; 2013), identified different conference types (Rossner & Jasmine, 2018), saw the process as procedurally dynamic (Zappavigna & Martin, 2018) and examined power dynamics (Jacobsson *et al.*, 2012; Gerkin, 2009) and role-taking adopted by participants (Asmussen, 2015).

Chapter Three will survey the origins and development of conversation analysis. This chapter will identify conversational tools used to establish differences between naturally occurring conversation and institutional talk. I will examine a study that applied conversation analysis to mediation sessions (Garcia, 1991), demonstrating how this approach illuminated an

institutional interaction that closely resembled my own project. The limitations and uniqueness of this sociological approach will be examined. This chapter will conclude with an explanation of the current research project, setting out the questions that will guide this analysis.

Chapter Four will describe the methodology by looking at how ethical approval for the project was obtained, the data was collected, how participants became involved, how informed consent was gained, and how confidentiality was maintained. An overview of the five recorded restorative justice meetings will be included. This chapter will explain how data was prepared and examined and an evaluation of the methods will be provided.

Chapters Five to Eight will be analytical in nature and will be organised around the presentation of conversational data. Chapters Five to Seven will examine Meetings One, Two, Four and Five and will examine each phase of the meeting separately. Chapter Five will examine the talk in the offender account phase, illustrating how it was managed to achieve the objectives of accepting responsibility and promoting an understanding of impact. This chapter will highlight how the talk of offenders was heavily scrutinised and how they were persuasively encouraged to re-narrate their account, making it align with the objectives.

Chapter Six will examine the talk in the victim account phase, illustrating how it was managed to achieve the objectives of giving victims the opportunity to express whilst also promoting a full understanding of the impact to pre-allocated listening offenders. This chapter will also provide a comparative analysis between the talk of victims and offenders, highlighting different approaches used in each phase to secure different objectives.

Chapter Seven will examine the talk that occurred in the reparation phase, paying particular attention to the apologies of offenders. This chapter will examine how offenders constructed their apologies, who they directed them at and how they were responded to. Instances where the talk in this phase demonstrated a shift in the relationship of victims and offenders will also be analysed.

Chapter Eight will examine Meeting Three separately because there was no victim present and it was organised differently. This will provide the opportunity for a comparative analysis to take place with Meetings One, Two, Four and Five. Meeting Three was less effective in achieving restoration, confirming the significance of institutional talk in achieving objectives.

Finally, in Chapter Nine I shall conclude this thesis by revisiting what it set out to achieve, identifying the questions asked in Chapter Three and demonstrating how they were answered. This chapter will demonstrate the contributions this research has made and set out areas of proposed research and future recommendations.

Chapter 1

Restorative Justice

1.1 Introduction

Restorative justice is a broad concept covering a diverse range of activities. This chapter will define restorative justice, look at the modalities of interaction where these practices take place and explore how its philosophy has developed over time. The principles, aims, and objectives of restorative justice will be identified and the problems that arise with these ideals reviewed.

1.2 What is Restorative Justice?

Contemporary interest in restorative justice emerged within the framework set by criminal justice. The criminal justice system defines crimes, creates the categories of victim and offender, and regulates their participation in the process resulting in no direct interaction between them. The victim and offender may see each other during the court process but they do not directly communicate. Restorative justice is an alternative response to crime based on direct interaction between the victim and offender. The victim and offender are brought together to talk about the impact of crime, improving a mutual understanding of these concerns (Restorative Justice Council, 2016). Restorative justice can be difficult to define however the process-based values underpinning it include: the need for consensual participation, dialogue, mutual respect (Doolin, 2007), non-domination, respectful listening, empowerment (Braithwaite, 1996) and equal concern for all who are involved (Braithwaite, 1996; Doolin, 2007). The restorative justice process includes varying models of interaction and some of these will be discussed in the next section.

1.3 Modalities of Interaction between Victims and Offenders

Restorative justice is a large umbrella term that incorporates different models. All these models insist that victim participation is voluntary (Braithwaite, 1996; Doolin, 2007; Zehr, 2014) and although offender participation is preferably voluntary, there are occasions where involvement can be encouraged if the expected outcome is restoration (Doolin, 2007; Zehr,

2014). Some of these models include conferences, direct mediation, family group conferences and circles. Conferences involve the victim and offender meeting in the presence of a facilitator. Community members can be present to support the victim and offender, but they are not directly involved in decision making. Direct mediation involves a victim, offender, and facilitator with no supporters present (Shapland *et al.*, 2011). Conferences and direct mediation aim to include victims in the process instead of excluding them as the current system does, helping them seek answers and restitution (Zehr & Amstutz, 1998). They aim to hold offenders accountable for their actions, promoting an understanding of consequences and encouraging reintegration into society (Zehr & Amstutz, 1998). Family group conferences are structured decision-making meetings led by family members who create a plan to support the safety and protection of the offender. Circles include the victim, offender, and community members who are actively involved in the decision-making process.

Restoration is an important part of the restorative justice process, and this can be defined as repairing the harm to those affected by crime. The term restorative justice is used in several areas, some programmes fully apply the principle of restoration to their model and others do not, and some do so in a partial way. Some processes are partially restorative if all participants do not attend but this should not be avoided because some degree of restoration can still occur (Doolin, 2007; Zehr, 2014). Restoration can be demonstrated by the emotional healing of victims and the acceptance of responsibility and an understanding of impact from offenders. In cases where victims are not willing to attend, partial restoration can still occur if offenders accept responsibility and demonstrate an understanding of impact. The expectations of restorative justice involve participants volunteering to attend, the participation of those attending and the presence of a neutral facilitator. However, the aims and objectives differ depending on the scheme in which they take place. The aims of a restorative justice programme are reflected in the theoretical perspective 'from which the scheme itself has developed' (Shapland *et al.*, 2011, p.15). To assess the effectiveness of a particular scheme, this needs to be done in relation to its aims (Shapland *et al.*, 2011). In addition, the process is influenced by the views and values of justice held in society at the time. Such views have equated justice with punishment where offenders are treated differently from other members of society. In response to misdeeds, punitive sanctions are imposed through the court system sometimes removing offenders from society. These views conflict with the restorative justice approach which is based on 'bringing people together' and reintegrating offenders back into the community (Shapland *et al.*, 2011, p.15). The scheme supporting the restorative justice

meetings examined in this research will be discussed in Chapter Four and closely resembles a model of direct mediation because the victim and/or offender attend with no community involvement. The next section will provide an overview of the history of restorative justice.

1.4 History of Restorative Justice

Restorative justice is said to be grounded in traditions from the 'ancient Arab, Greek and Roman civilisation', apparently being 'the dominant model of criminal justice throughout most of human history for all the world's people' (Braithwaite, 1999, pp. 1-2). Specific histories and practices are lumped together to form one type of justice, suggesting restorative justice existed before retributive justice came into practice (Daly, 2002). However, it is more likely that both restorative justice and retributive justice existed alongside each other (Daly, 2002). This romantic depiction is used to claim that the better form of justice is being brought back to current society (Daly, 2002). Another common claim is that restorative justice 'has its direct roots in Maori culture' (Shearing, 2001, p. 218). Maori communities traditionally resolved conflict in an open manner, sharing ideas and concerns and collaboratively working to protect the care of children and conflict within families. However, the 'real story' is that in the 1980's, Maori politicians challenged 'white New Zealanders to their welfare and criminal justice systems', resulting in the implementation of restorative justice practices which were more culturally accommodating to members of their diverse community (Daly, 2002, p. 63).

An alternative claim is that the restorative approach is a new form of justice compared to retributive and rehabilitative models that have existed in the past century, advertised as a third model of justice, and seen as a new 'lens' to be viewed through (Zehr, 1990). According to Zehr (1990) the first recognised restorative justice case was recorded in Canada in 1974, involving two young offenders who had vandalised 22 properties. The judge in this case broke the usual punitive tradition by sending the two offenders out to apologise to their victims with the intention of promoting reparation. This resulted in several victim-offender reconciliation programmes being established; the news spread to the UK and the Home Office took an interest in these schemes which started in the early 1980s (Liebmann, 2007). This alternative response to crime was 'diverting offenders from prison' which was perceived 'as an expensive and ineffective response to crime' (Liebmann, 2007, p. 39). Both conceptions of the history of restorative justice have elements of truth. Regardless of whether restorative justice is claimed to have existed millennia ago (Braithwaite, 1999), is rooted in indigenous communities (Shearing, 2001) or is a new form of justice (Zehr, 1990), all

depictions are romanticised to justify current practices (Daly, 2002). Daly (2002, p. 63) argues, that the history of restorative justice is limited and what is created is an 'origin myth' used to promote restorative practices today. The next section will identify the principles that underpin some restorative justice processes.

1.5 Principles of Restorative Justice

A principle that underpins some restorative justice schemes is the understanding that 'crime is a violation of people and of interpersonal relationships' (Zehr, 2014, p. 18). This comes from the assumption that we are all interconnected within our society and 'crime represents a wound in the community, a tear in the web of relationships' (Zehr, 2014, p. 18). This principle suggests that the effect of crime is damaged relationships and the cause of this is offending behaviour (Zehr, 2014). If a person commits a crime, it is assumed that this is because they did not feel connected to the people in their lives. The crime itself damages further interpersonal relationships, resulting in obligations and responsibilities to put things right (Zehr, 2014). The intention of this principle is to deal with the root cause of the offence and prevent future reoffending.

Restorative justice is often claimed to be the opposite approach to criminal justice (Zehr, 2014). It is claimed that the criminal justice system sees 'crime as a violation of laws and the state' as opposed to being a 'violation against people and relationships' (Zehr, 2014, p. 19). The criminal justice system creates guilt, requiring the state to determine blame and initiate punishment instead of those being affected by crime coming together to put things right (Zehr, 2014). The criminal justice system responds to wrongdoing by performing a 'status degradation ceremony' which involves 'any communicative work between persons, whereby the public identity of an actor is transformed into something looked on as lower in the local scheme of social types' (Garfinkel, 1956, p. 420). The purpose of lowering the total identity of the perpetrator is to promote future law-abiding behaviour for those observing (Garfinkel, 1956). The offence and the perpetrator are removed from everyday life, viewing the behaviour and the person as the same. These are just some of the characteristics that were identified as conditions of a successful degradation ceremony (Garfinkel, 1956). These methods stigmatically shame people and contribute to reoffending (Braithwaite, 1989).

Shame has an impact on a person's belief in their own ability which can result in increased recidivism (Tangney *et al.*, 2011). Another key principle of some restorative justice schemes

involves dealing with shame in a reintegrative way to reduce reoffending (Braithwaite, 1989). Reintegrative shaming involves expressing disapproval of the criminal act and giving the offender the opportunity to express remorse and build their internal conscience, preventing future offending (Rossner, 2013). A model was developed that inverted the techniques identified by Garfinkel (1956), identifying characteristics of a successful reintegration ceremony (Braithwaite & Mugford, 1994). The offence and the perpetrator are separate, promoting the idea that people are essentially good but sometimes commit wrong acts. When expressing disapproval for these acts, this must occur alongside the promotion of reintegration. This model explicitly used Garfinkel's work to position restorative justice in contrast to traditional forms of justice, showing distinctions between these two practices. Status degradation and reintegration ceremonies attempt to promote and establish values and laws, but they do so in very different ways. The status degradation ceremony takes the act as emblematic of the total identity of the offender (Garfinkel, 1956) whereas the reintegration ceremony sees the act and the person as separate from one another. The status degradation ceremony removes the person from society whereas the reintegration ceremony focuses on societal reintegration. The next section will provide an overview of the aims of some restorative justice schemes.

1.6 Aims of Restorative Justice

There are standards set for restorative justice schemes that are expected to be honoured (Braithwaite, 1996) and it is important that those who participate do not experience degrading or humiliating treatment (Braithwaite, 1996). Facilitators are expected to remain neutral within the restorative justice process, treating participants equally and fairly. If any attempts are made to silence or dominate participants then action needs to be taken to counter this (Braithwaite, 1989). Restorative justice schemes should empower the participants by providing an arena whereby their stories can be heard (Braithwaite, 1996). This is an interesting contrast with the criminal justice process, which rarely includes the stories of victims and offenders, and is instead focused on evidence giving. Restorative justice is arguably a needs-based approach which involves identifying and meeting the differing needs of the participants involved (Sullivan & Tifft, 2001) and showing equal concern for all (Braithwaite, 1996; Doolin, 2007; Sullivan & Tifft, 2001; Zehr, 2014). These values are important but unless they attempt to achieve the outcome of restoration then the process is wrongly labelled (Doolin, 2007). Without clear guidelines about the outcome of restoration

this could result in poor practice and humiliating and degrading treatment (Doolin, 2007). The next section will explain how the objective of restoration is achieved within some restorative justice schemes.

1.7 Restoration and Restorative Justice

The outcome of restoration is the key objective that is identified in the literature on restorative justice (Braithwaite, 1996; Doolin, 2007; Zehr, 2014) and this is defined as, 'every action that is primarily oriented toward doing justice by repairing the harm that has been caused by a crime' (Bazemore & Walgrave, 1999, p. 48). The objective of restoration applies to the needs of all parties - the victim, the offender, and the community (Braithwaite, 1996; Doolin, 2007; Zehr, 2014) Harm can be broadly defined but for some restorative justice schemes it goes beyond material losses, focusing on repairing emotional damage which is different for each participant (Doolin, 2007). Emotional damage can refer to psychological injuries that are the result of the offence, damaged relationships, and social bonds (Doolin, 2007). Shame is related to social bonds and is emphasised as a 'master emotion', alongside guilt and fear, and it is argued that these emotions are key to reconciliation (Retzinger & Scheff, 1996, p. 315). These vulnerable emotions need to be 'evoked and acknowledged by the participants' (Retzinger & Scheff, 1996, p.318) for symbolic reparation to occur. Symbolic reparation can be demonstrated by the offender expressing shame and remorse in a genuine way, followed by the victim at least taking the first step in forgiving the offender (Retzinger & Scheff, 1996). Forgiveness is an emerging standard for the victim, but this should not be encouraged, it should be freely given (Braithwaite, 1996). These dynamics are arguably governed by the 'management of shame' and the 'mutual identification and understanding that prevails the bond between the participants' (Retzinger & Scheff, 1996, p. 317). Guilt is arguably a more effective emotion to work with than shame (Tangney, 1995; Van Stokkom, 2002). Shame comes from outward disapproval from others whereas guilt is an inward emotion that comes from the conscience (Tangney, 1995). Guilt relates to empathy because of its concern for others making it more likely to lead to corrective action such as an apology or a desire to repair harm (Tangney, 1995).

For victims, restoration can involve empowering them (Braithwaite, 1996; Doolin, 2007; Zehr, 2014) to tell their story (Zehr, 2014) and have their story heard (Braithwaite, 1996). Victims should be given the opportunity to express how they feel about the impact of the crime (Doolin, 2007) and be able to ask questions, receiving information that only the

offender holds (Zehr, 2014; Doolin, 2007). Victims should be empowered by having some control over what happens with their case and the offender (Zehr, 2014; Doolin, 2007). Victim satisfaction is an expected outcome of restorative justice (The Crown Prosecution Service, 2019) and this arguably involves raising the victim to his or her 'pre-crime level' (Zehr, 1990, p. 183), restoring them back to where they were before the offence occurred, reducing fear, and helping them feel 'paid back' for the harm caused (The Crown Prosecution Service, 2019).

For offenders, restoration should involve being made aware of the harm caused by the offence and the consequences of their actions. The presence of the victim plays an important part in achieving this because the offender hears the victim's story, challenging any rationalisations about their behaviour (Doolin, 2007). Offender accountability can be demonstrated by 'encouraging offenders to understand the impact of their behaviour' and 'urging them to take steps to put things right' (Zehr, 2014, p. 8). Emotional restoration is arguably an important part of the restorative justice process and Harris *et al.* (2004) present a theoretical construction of moral emotions that are expected to occur. The offender may start by feeling embarrassed, assuming the meeting will focus on their transgression, leading to feelings of disapproval from others. After hearing the victim's story, the offender may feel empathetic and demonstrate remorse (Harris *et al.*, 2004). Although emerging standards set for offenders are remorse and apology, these should not be encouraged (Braithwaite, 1996); instead, they should be offered genuinely because this contributes to repairing harm for the victim and offender.

Some restorative justice schemes attempt to deal with the main consequences of crime whether that is interpersonal relationships (Zehr, 2014) or shame (Braithwaite, 1989). Damaged interpersonal relationships or shame from committing crime can lead to future reoffending and the intention is to prevent this by addressing these issues in some restorative justice schemes. Preventing future reoffending can be part of the restoration process and it is important that victims feel reassured that this will not happen again to them or others (Zehr, 2014). Offenders arguably need to be acknowledged as victims and consideration must be given to their needs which may involve offering treatments for addictions and other problems (Zehr, 2014). Another part of offender restoration can involve restoring them back into the community by involving people in their lives who care about them (Doolin, 2007).

Community restoration is often identified as an important part of the restorative justice process (Doolin, 2007) and the community needs to be acknowledged as a victim itself (Zehr, 2014). The difficulty here is defining community (Doolin, 2007; Zehr, 2014) because modern society is more fragmented and focused on the individual as opposed to the collective. However, some restorative justice schemes are intent on encouraging the community to rebuild and take on responsibility for the welfare of its members (Zehr, 2014). Community restoration can occur when individual offenders, victims and agencies that sit outside the criminal justice system come together to address the issues that relate to crime. Community restoration can involve acknowledging the harms done to the offender by society and addressing social inequalities (Doolin, 2007). The involvement of the community may increase the confidence of the public in how the justice system responds to crime (The Crown Prosecution Service, 2019). The next section will address problems that arise with the principles, aims and objectives of restorative justice that have been explored.

1.8 Problems with the Principles, Aims and Objectives of Restorative Justice

There is a difference between what should be happening and what is happening in restorative justice schemes. This section will explore the problems with the principles, aims and objectives of restorative justice.

1.8.1 Meeting the Needs of all Parties

It is claimed that restorative justice is a needs-based approach (Sullivan and Tifft, 2001) that intends to provide equal concern for all the participants involved (Braithwaite, 1996; Doolin, 2007; Sullivan and Tifft, 2001; Zehr, 2014). The needs of the victim and the offender can be focused on differently (Sullivan & Tifft, 2001). The literature suggests that the needs of the victim are emotional and psychological whereas the needs of the offender are more practical, focusing on employment, housing, and education with the intention of transforming their future. Gerkin (2009) argues that this approach ignores the emotional and psychological needs of the offender, limiting their participation to demonstrations of accountability and denying the key principle of equality in the process. Offender accountability is a term often used to understand restorative justice, but what about the needs of the offender? (Zehr, 2014). The expectation is that victims and offenders define their own needs throughout the process, but the needs of offenders can sometimes be decided by victims (Gerkin, 2009) during the

decision-making stage. This denies offenders the opportunity to define their own needs, moving away from the needs-based approach to justice that it claims to be.

The needs of victims can be ignored depending on the motivation for including them in some restorative justice schemes. Restorative justice can include victims more than alternative forms of justice, but a question that needs to be asked is whether victims are being used to help offenders on their journey of transformation (Zehr, 2014). When victims are used as props for the rehabilitation of the offender, this is considered unacceptable (Braithwaite, 1996) as their needs are ignored or at least treated as secondary. The individuals who attend the restorative justice process have a variety of needs that are often ignored in the literature, with the focus being on the conference itself (Zehr, 2014). Without the focus being on individual needs, equal concern for all parties will be difficult to achieve.

1.8.2 The Importance of Participation

Those involved in the restorative justice process may be apprehensive about participating because of their experiences of living in a retributive society. When the offender needs to demonstrate accountability, this involves giving an account of the wrong that occurred. Consider the criminal justice system and how offenders are told that anything they say may be used against them in a court of law. This may have an impact on the account the offender makes in some restorative justice schemes. Offenders who are no longer involved in crime may re-narrate their lives in ways that do not accept full responsibility, and this may be different from what restorative justice advocates prefer (Maruna, 2001).

The emerging standards of restorative justice include remorse, apology and forgiveness which are expected to occur naturally (Braithwaite, 1996), but some restorative justice schemes are structured and follow a particular format, restricting participation rights and preventing standards from happening (Gerkin, 2009). Facilitators ask participants questions, often limiting their participation to answering. These limitations and restrictions prevent the participation that is claimed to be an important part of this process.

1.8.3 Restorative Justice and Retributive Justice

The criminal justice process refers to a set of procedures and decisions relating to criminal cases such as investigation, prosecution, adjudication, and sentencing, all of which are dictated by law and policy. Criminal justice does not have retribution as its stated aim,

instead punishment is used as a form of deterrence, incapacitation, or rehabilitation, preventing offenders from committing future crime. Imprisonment protects the public from those who commit dangerous offences and rehabilitation helps change the attitudes of offenders (Daly, 2003). Characteristics of a successful reintegration ceremony (Braithwaite & Mugford, 1994) were explicitly modelled to position restorative justice in contrast to the characteristics of a successful degradation ceremony (Garfinkel, 1956). However, the criminal justice process was the context in which the restorative justice process emerged and developed. The criminal justice process defines the crime, and the categories of victim and offender, and strictly monitors and prescribes their participation in the process. The restorative justice process begins with the categories of victim and offender as defined by the criminal justice process but intends to promote different possibilities for interaction, which are not set out in law.

These comparative claims suggest that restorative justice is positive and criminal justice is negative (Daly, 2002). This highlights the restorative process as a superior form of justice, and it does so with the intention of selling a product (Daly, 2002). Adequate attention is not given to the restorative and retributive elements of the process (Zehr, 2014). After observing restorative justice conferences Daly (2002) identified that different types of justice were apparent. The censure for the act provided by offenders is retributive justice, while promoting future law-abiding behaviour is rehabilitative justice and when offenders are asked what they can do to make things right for victims, this is restorative justice (Daly, 2002). There is less emphasis made in the restorative justice literature on the accountability of the offender and the focus remains on repairing the harm and reintegration back into the community (Daly, 2002). Offender accountability is retributive justice (Daly, 2002) which does not match advocates' claims that restorative justice stands in opposition to retributive justice. The criminal justice system can refer offenders to restorative justice, showing that the two sometimes work alongside each other. Furthermore, concepts such as victim and offender are used in both restorative and retributive practices and these are fixed identities that can create power imbalances (Gerkin, 2009). Offenders in the restorative justice process could sometimes find themselves up against the victim and community in the same way that they would in the criminal justice process standing up against the state (Gerkin, 2009).

1.8.4 The Problem with Restoration

The main objective of restorative justice is arguably restoration which can be defined as repairing the harm (Doolin, 2007) caused by crime. If restoration is the main objective, are the participants involved in the process clear about this? If participants are not clear, then achieving restoration is difficult. Participants who are clear about this may feel disappointed with the results of the process because this is an unrealistic expectation. Words like 'restore', 'repair' and 'recovery' are used and yet each of these, are difficult to achieve in restorative justice processes. Overall, institutional talk, asymmetrical relationships between facilitators, victims and offenders and the attendance of the victim contributed to the achievement of the main objective of restorative justice for this scheme which was offender restoration. (Zehr, 2014). Raising the victim to his or her 'pre-crime level' involves restoring them back to the place that they were in prior to the offence occurring. The impact that crime has on victims is variable. To raise a victim to a 'pre-crime level' would involve healing emotional injuries caused by crime which may occur over time or may never truly be restored (Doolin, 2007; Zehr, 2014). When a crime is committed, the offender is arguably placed in a position of power over the victim. The restorative justice encounter can be a form of counter-power, placing the offender in a position to be answerable and the victim in a position of empowerment, restoring the power that the victim lost from the crime. Although this may not heal psychological wounds, it may partially restore the victim by giving them some power back.

Offenders have often been harmed by society and acknowledging this means addressing social inequalities (Doolin, 2007), making offender restoration difficult. This is a big task that sits largely outside the scope of restorative justice. The needs of the offender can be ignored, limiting participation to that of accountability (Gerkin, 2009). Emotions have been identified as an important part of restorative justice. There is a particular emphasis on shame, yet other emotions such as guilt (Van Stokkom, 2002), remorse and empathy (Harris *et al.*, 2004) are ignored. These emotions are a consequence of committing crime and some are expected to occur throughout the restorative justice interaction. The difficulty would be to disentangle these emotions so easily in the talk that takes place within a single restorative justice encounter. The needs of offenders can be addressed in practical ways, preventing the repair of harm to their emotional needs.

It has been argued that damaged relationships are the cause of crime (Zehr, 2014) and yet the idea of repairing a relationship within the context of some restorative justice schemes can be a problematic one. In many cases when a crime is committed, there was no relationship in the first place. Victims are often targeted at random and do not know their offender personally. It is difficult to repair a relationship that did not already exist. It is assumed that damaged relationships relate to community and family members. Whilst some modalities of restorative justice include support from family and community members, repairing these broken relationships in one meeting may be difficult to achieve.

There are many issues with the community being stakeholders in some restorative justice schemes. Modern society is no longer bound to the sense of community that was apparent in traditional societies. Society has become more fragmented and we do not share the same sense of community that we used to. Restorative justice is frequently dismissed as resting on 'a romantic plea for a bygone communitarian era' (Braithwaite, 1993, p. 2). Restorative justice practices can certainly rely on a 'communitarian' society (Braithwaite, 1989) and it is argued that modern society is more communitarian than critics assume (Braithwaite, 1993). The concept of community in modern times is much more limited than the sense of community that existed in pre-industrialised time. Restorative justice can be an 'individual – centred communitarianism' because it 'looks for community on many and any bases that can be built around a single person' (Braithwaite, 2000, p. 122). Community can involve a small number of supporters attending some restorative justice schemes that have a relationship with the victim and offender (Johnstone, 2002). However, some would argue that certain individuals are so isolated that they are unable to even meet this modest requirement (Johnstone, 2002). Can restorative justice work in contemporary societies where the emphasis is on interdependence rather than community? Although there may be some element of community that can be built around individuals, this 'might or might not be a strong enough social-structural base to make the social mechanisms of restorative justice work effectively' (Bottoms, 2003, p. 109). Community restoration is difficult; whilst involvement empowers the community to be part of the justice process, it does not address the social inequalities that harmed the offender and resulted in the offence (Doolin, 2007). This section has demonstrated that the standards for restorative justice are set so high that achieving them seems impossible. The word 'restorative' when paired with justice can be a problematic term because it may raise unrealistic expectations.

1.9 Conclusion

Restorative justice is difficult to define because it is a broad concept with a range of activities. It includes a range of modalities of interaction between the victim and offender, involving different participants depending on the structure of the process or who volunteers to attend. There are several aims referred to in restorative justice literature that are expected to occur throughout different schemes. These include: the need for consensual participation, dialogue, mutual respect (Doolin, 2007), non-domination, respectful listening, empowerment (Braithwaite, 1996) and equal concern for all who are involved (Braithwaite, 1996; Doolin, 2007) and whether these aims are achieved in the varying modalities of interaction is questionable.

Some restorative justice schemes attempt to deal with consequences and causes of crime; whether it is a violation to people and relationships (Zehr, 2014) or shame (Braithwaite, 1989), one main intention is to prevent future reoffending. The main objective of restorative justice identified in literature is restoration (Braithwaite, 1996; Doolin, 2007; Zehr, 2014) and this is based on the individual needs of the victim, offender, and community. Restoration has been identified as an unrealistic expectation that is difficult to achieve. This objective is prescribed by restorative justice scholars and advocates and may not occur in actual practice. This chapter has focused on the implications of the diverse nature of the principles, aims and objectives of restorative justice processes. The next chapter will review research in the field of restorative justice, identifying any differences between ideals and practice.

Chapter 2

Social Scientific Research on Restorative Justice

2.1 Introduction

Current research shows a clear difference between the ideals of restorative justice and actual practice. This chapter will start by acknowledging the differing modalities of interaction before reviewing social scientific investigations on restorative justice. The investigations to be reviewed will focus on the predominate areas of interest which consist of the impact restorative justice has on rates of reoffending and the levels of satisfaction experienced by those involved. Fewer studies have focused on the restorative justice interaction, each of these will be reviewed.

2.2 Modalities of Restorative Justice Interaction

Restorative justice is used for young and adult offenders and can take place at all stages of the criminal justice system. Pre-sentence restorative justice occurs when offenders are diverted from court, using restorative justice as an alternative response to crime. Post-sentence restorative justice occurs when offenders are asked to attend restorative justice as a condition of their sentence. In some instances, victims and offenders can ask to participate in the restorative justice process for their own personal reasons. There are several modalities of interaction in which restorative justice can take place:

- Victim-offender mediation (VOM) is a process involving the victim, offender, and a trained facilitator (Schweigert, 1999).
- Conferencing follows a similar format to VOM but includes people attending to support the victim and offender (O'Connell *et al*, 1999).
- Restorative justice policing is like VOM, but a trained Police Officer facilitates the meeting (McCold, 2003).
- Family group conferences rely on direct negotiation between the victim and offender as well as family members directly involved in the issue (Schweigert, 1999).
- Circles involve a victim, an offender and members of the community who often lead the interaction on a voluntary basis (Schweigert, 1999).

- Forum sentencing is available to adult offenders likely to serve a prison sentence and involves getting offenders, victims, and other affected participants together to talk about the crime to create an intervention plan that is part of the offender's sentence which is an alternative to imprisonment (Poynton, 2013).

2.3 Research in the Field of Restorative Justice

There are several lines of inquiry about the characteristics and effects of restorative justice. A major area of focus for restorative justice research consists of measuring the impact that it has on rates of reoffending (Bradshaw & Roseborough, 2005; Hayes & Daly, 2003; 2004; Jones, 2009; Jeong *et al.*, 2012; Latimer *et al.*, 2005; McCold & Wachtel, 1998; McGarrell *et al.*, 2000; McGarrell & Hipple, 2007; Rodriguez, 2005; Shapland *et al.*, 2008; Tyler *et al.*, 2007). Studies focusing on this were selected based on the differing ways that data was measured. Rates of reoffending have been measured over different time periods, demonstrating the short and long-term impact of restorative justice. Assessments were carried out comparing the impact of restorative justice with court, comparing different types of restorative justice provisions with each other, and observing offender and conference characteristics, seeing if any had an impact on recidivism. By evaluating a variety of studies, a comprehensive picture can be provided demonstrating the impact restorative justice has on rates of reoffending.

Another area of focus for current research involves measuring the apparent levels of procedural and restorative justice in the process whilst assessing victim and offender satisfaction (Bazemore & Schiff, 2005; Choi *et al.*, 2012; Coates & Gehm, 1989; Daly *et al.*, 1998; Daly, 2002; 2003; 2006; Marshall & Merry, 1990; Sherman *et al.*, 1998; Sherman & Strang, 2004; Strang, 2002; Strang *et al.*, 2006; Umbreit, 1994; Umbreit *et al.*, 1994; Umbreit & Coates, 1993; Umbreit & Roberts, 1996; Umbreit *et al.*, 2000; Umbreit *et al.*, 2005). These studies were selected based on their influential nature and include: The Reintegrative Shaming Experiments (RISE) and the South Australian Juvenile Justice (SAJJ) project, both were large in scale, observing a wide range of conferences. Victim satisfaction is a commonly stated aim for restorative justice (The Crown Prosecution Service, 2019) which is why a study focusing specifically on the perceptions of victims was selected for review (Morris *et al.*, 1993). A smaller selection of research has been conducted that focuses on the restorative justice interaction using qualitative research methods. Therefore, a comprehensive review of all current research in this area will be included in this chapter. These studies observe meetings as an emotionally (Rossner, 2011; Rossner & Jasmine, 2018) or procedurally

(Zappavigna & Martin, 2018) transformational experience, observe the talk particularly in relation to the victim (Jacobsson *et al.*, 2012), and the level of participation (Gerkin, 2009) and role-taking (Asmussen, 2015) of victim and offender.

2.4 The Impact of Restorative Justice on Reoffending

Several studies have been conducted evaluating the impact restorative justice has on rates of reoffending, measuring success by comparing recidivism following involvement in a restorative justice conference or in a court proceeding (Jeong *et al.*, 2012; Jones, 2009; Latimer *et al.*, 2005; McCold & Wachtel, 1998; McGarrell & Hipple, 2007; Rodriguez, 2005), comparing different types of restorative justice programs with each other (Bradshaw & Roseborough, 2005) or assessing whether offender and conference characteristics had an impact on the rates of reoffending (Hayes & Daly, 2003; 2004; McGarrell *et al.*, 2000; Shapland *et al.*, 2008; Tyler *et al.*, 2007). This section will focus on studies that highlight some key findings, each of which focus on different types of offenders, different times the restorative justice process took place and different modalities of interaction.

McCold and Watchel (1998) compared young, first-time offenders involved in family group conferences, led by the police with offenders who attended court. This comparison was made by monitoring police and court records for twelve months following the initial arrest and conducting surveys and observations. Findings revealed that reoffending was reduced for violent offenders who attended a conference rather than the court but the same did not apply for property offenders. The choice to attend the conference had an impact on reducing reoffending, highlighting the importance of the offender's motivation to be involved (McCold & Wachtel, 1998). Rates of reoffending cannot be inferred as a direct result of court or conference involvement because measures were conducted twelve months after initial arrest not after involvement in either process. Conferencing was voluntary and some offenders declined participation and were still included in the results therefore other variables could be responsible for these findings.

Rodriguez (2005) used an online tracking system for a 24-month follow-up period after young offenders had been involved in family group conferences, taking place prior to sentencing, and comparing it with offenders who attended court. Offenders who did not complete the restorative justice process were not included when measuring rates of reoffending and community characteristics, making findings a direct result of conference or

court involvement. Community-based characteristics that were observed included: race, ethnic heterogeneity, unemployment, and delinquency rates. Participation in restorative justice made offenders 0.81 times less likely to reoffend than those who attended court, and community characteristics had no effect on rates of reoffending highlighting the benefit of all offenders being involved in the restorative justice process (Rodriguez, 2005).

Another study tracked the reoffending of first time, young offenders who attended family group conferences, pre-sentence, over a 24-month period following the original arrest, comparing them to those who attended court. The tracking system monitored the amount of time it took to reoffend, considering whether the original offence type had any impact on rates of reoffending (McGarrell & Hipple, 2007). Offenders who 'were not arrested within the 24-month follow-up period survived' and those that were arrested did not 'survive' (McGarrell & Hipple, 2007, p.233-234). This was 'calculated as the number of days between the date of the youth's qualifying arrest to the first rearrest during the 24-month period' (McGarrell & Hipple, 2007, p.234). Findings revealed that a greater proportion of offenders who attended conferences 'survived (51.8%) compared to the control sample (46.1%)' and the impact on reoffending was more effective for violent offenders (McGarrell & Hipple 2007, p.234) which supports earlier findings from McCold and Wachtel (1998). However, the 24-month follow-up period was measured following the initial arrest making reoffending variables difficult to determine. Although this study observed the presence of remorse and consensual decision making in conferences, it did not assess whether there was a link between these characteristics and rates of reoffending. These findings show that restorative justice had a positive short-term impact despite the comparative difference being small.

Using the same data, a further study was conducted (Jeong *et al.*, 2012), assessing the long-term effect of restorative justice by observing rates of reoffending twelve years following the initial arrest. This is a valuable contribution to existing materials because usually the focus has been on short-term follow-up periods. Findings revealed that the impact on rates of reoffending did not continue when examined over a twelve-year period (Jeong *et al.*, 2012). It has been argued that although official records are widely used to measure reoffending, self-reported data is higher in validity when measuring rates of occurrence and the types of crimes committed (Junger-Tas & Marshall, 1999).

In another study, forum sentencing participants who attended a restorative justice process to create a plan with others affected by crime as an alternative to a prison sentence (Poynton,

2013) were compared to participants who were sentenced in court (Jones, 2009). Reoffending databases were monitored for twelve months following involvement in these processes (Jones, 2009). Offender characteristics for all of those involved in this study consisted of adult offenders (aged 18-24) who had entered a guilty plea or been found guilty and were likely to be facing prison. Forum sentence groups 'were more likely to re-offend within twelve months (24.2% vs 15.5%), reoffended more quickly' and had a greater number of convictions that those who attended court (7.6% who attended forum sentencing had two or more convictions in twelve months in comparison to 3.4% of those who attended court) and 'there was no significant difference between both groups in the likelihood of them committing less serious offences' (Jones, 2009, p.6). These findings suggest that restorative justice was less effective for adult offenders in reducing reoffending than young offenders as the previous studies demonstrate. Findings did not include victimless crimes, defined as illegal acts that only involve the offender and other consenting adults, including, drink-driving related offences, drug use and distribution and prostitution. Victims attended forum sentencing procedures and, therefore, it cannot be argued that findings were the result of non-attendance by victims. Reoffending was defined as offences that were proven in court and alternative forms of criminality were not included in the rates of reoffending which means findings could be higher than the study reported. The studies included so far have assessed the impact of restorative justice on rates of reoffending by comparing it to traditional criminal justice methods.

The studies to be addressed next used meta-analysis, grouping together and analysing findings from pre-existing studies such as these to assess the impact restorative justice has on rates of reoffending. Thus, Latimer *et al.* (2005, p.135) included '22 studies that examined the effectiveness of 35 individual restorative justice programmes' which mostly included young, male offenders, at pre- and post- charge or at sentence. The focus of these studies was on comparing 'victim satisfaction, offender satisfaction, restitution compliance, and recidivism reduction' between court and conference participants (Latimer *et al.*, 2005, p.136). The 'overall effect size of the 32 tests' examining the impact restorative justice had on rates of reoffending 'was +.07 (SD=.13) with a 95% CI' (Latimer *et al.*, 2005, p.137). The 'effect sizes ranged from +.38 to -.23, [and] more than two thirds of the effect sizes were positive (72%)', showing that restorative justice was more effective in reducing reoffending rates in comparison to non-restorative approaches (Latimer *et al.*, 2005, p.137).

A later study by Bradshaw and Roseborough (2005, p.18) used meta-analysis on 19 studies including pre-sentenced young offenders, calculating the 'average effect size for all studies as M =.26, SD =.39', finding that victim-offender mediation (VOM) and family group conferencing (FGC) contributed to a 26% reduction in reoffending. Findings revealed 'positive effect sizes' in 15 studies, 'no treatment effect' in five studies and negative effect sizes in three studies (Bradshaw & Roseborough, 2005, p.6). The effect sizes were higher for 'VOM (M =.34, SD =.46) than FGC (M =.11, SD =.12)' demonstrating a 'statistically significant' difference between them (Bradshaw & Roseborough, 2005, p.18).

Meta-analysis can be criticised for self-selection bias because it includes 'predominantly published studies' and 'it is surmised that the probability of publishing a study is increased by the statistical significance of the results'. Therefore, studies with no effect were less likely to be published resulting in them not being included in results. Latimer *et al.* (2005, p.135) covered a wider body of existing research by including 55% of 'studies that were not published in peer-reviewed academic journals' which is not usually apparent in meta-analysis. A consistent problem with the studies explored is that restorative justice involvement is voluntary whereas control group involvement is not, therefore a fair comparison between groups cannot be made. There is a difference in the way that court and conference cases are handled, also presenting different windows of time for measuring reoffending (Hayes & Daly, 2003). Self-selection bias is an additional concern for research in this area because offenders were selected based on specific characteristics such as their age, whether it was their first offence and whether they had admitted guilt; therefore, samples were not representative of the whole offender population.

The focus so far has been comparing the impact of court and conference on rates of reoffending. The studies to be explored next assess whether offender and conference characteristics have an impact on rates of reoffending, moving away from the comparative nature of previous studies to examine the impact of restorative justice. Research suggests restorative justice was more effective in reducing reoffending than court, and offender and conference characteristics contributed to this success (Hayes & Daly, 2003; 2004; Shapland *et al.*, 2008). Hayes and Daly (2003; 2004) observed and interviewed pre-sentenced young offenders who attend restorative justice conferences, revealing a link between demonstrations of remorse and outcomes being achieved and rates of reoffending (Hayes & Daly, 2003). Findings were not based on crime reports therefore reoffending could not be effectively

measured and offenders may not have been honest in interviews due to fears concerning new criminal sanctions. A later study used conference case files and historical crime records and found that offender characteristics (age, gender, and prior offending history) had an impact on reducing reoffending whereas conference characteristics (length, handling times, offender apology and agreed outcomes) did not (Hayes and Daly, 2004). Findings revealed that 51% of first-time offenders aged between ten to twelve years old did not go on to reoffend (Hayes & Daly, 2004). Offenders with a criminal history were 2.3 times more likely to reoffend than those with no criminal history (Hayes & Daly, 2004), showing the impact restorative justice had on helping first time offenders grow out of crime quickly. These findings were limited to agency records because no observations were conducted which could be useful in determining conference characteristics more clearly.

A later study focused on three restorative justice schemes involving young and adult offenders, pre- and post- sentence, assessing offender and conference characteristics and the impact that these had on rates of reoffending. These characteristics were compared with cases processed through court by observing police national computer (PNC) records two years after involvement in the process (Shapland *et al.* 2008). The pattern of reconviction rates were almost identical between conference and court, but results were based on some offenders serving short-term prison sentences preventing them from offending during this time. Meta-analysis on the three schemes revealed that when offenders wanted to meet the victim, found the conference useful, saw the impact the offence had on others and were actively involved in the process, this contributed to a reduced rate in reoffending (Shapland *et al.* 2008). Findings revealed a relationship between the extent to which the outcome agreement was completed and the frequency of reconviction (Shapland *et al.* 2008), confirming what was found by Hayes and Daly (2003) with the back-up of crime reports to fully verify findings. There was no impact on reoffending when an apology was made, irrespective of whether the victim perceived this to be genuine or not. The motivation of offenders to attend the restorative justice process had an impact on rates of reoffending. Findings revealed that offenders who attended court and conference were less likely to be reconvicted if the process occurred post-sentence. Thus, pre-sentence offenders may have been motivated to attend to look more favorable in court whereas post-sentence offenders may have been motivated to attend to repair the harm. Young offenders, violent offenders and post-sentence referrals led to less reoffending, but offence type was only significant for adults, not youths. When observational measures were used alongside PNC records this increased the validity of findings (Shapland

et al. 2008). This research makes a valuable contribution to existing materials because it includes adult offenders when the usual focus has been on young offenders.

Research explored in this section suggests that some restorative justice schemes were more successful than court in positively impacting rates of reoffending. Findings revealed a significant relationship between offender and conference characteristics and a reduction in recidivism. This highlights the importance of the restorative justice process because conference characteristics contribute to reducing reoffending. The next section will review literature that focuses on conference characteristics along with levels of satisfaction experienced by victims and offenders.

2.5 Conference Characteristics and Levels of Satisfaction within Restorative Justice

Several studies of restorative justice have been conducted that assessed the levels of procedural and restorative justice apparent within the process (Daly *et al.*, 1998; Sherman *et al.,* 1998) and the levels of satisfaction experienced by those involved (Bazemore & Schiff, 2005; Choi *et al.*, 2012; Coates & Gehm, 1989; Daly, 2002; 2003; 2006; Marshall & Merry, 1990; Morris *et al.*, 1993; Sherman & Strang, 2004; Strang, 2002; Strang *et al.*, 2006; Umbreit, 1994; Umbreit & Coates, 1993; Umbreit *et al.*, 1994; Umbreit *et al.*, 2000; Umbreit *et al.*, 2005; Umbreit & Roberts, 1996). This section will focus specifically on studies that highlight these findings, reviewing two influential pieces of research in the field of restorative justice: The Reintegrative Shaming Experiments (RISE) and the South Australian Juvenile Justice (SAJJ) project, both of which observed a high number of conferences. Following this, a study focusing specifically on the levels of victim satisfaction (Morris *et al.*, 1993) will be reviewed.

The Reintegrative Shaming Experiments (RISE) project was a large-scale study, focusing on four separate experiments using randomised control trials, comparing court and conference experiences (Sherman *et al.*, 1998). The expectation of the study was to gather data on 900 drink-driving-related offenders of all ages, 300 violent offenders under the age of 30, 150 young offenders who committed property offences and 150 young offenders who had shoplifted. Observations and interviews were used to evaluate the levels of procedural and restorative justice, victim and offender satisfaction and the impact restorative justice had on victim recovery. Victim satisfaction was measured for property and violent offence cases

because drink-driving and shoplifting cases had no victim present. Observations found that procedural justice, restorative justice, reintegrative shaming and stigmatic shaming were found to be greater in conferences than court. These findings were anticipated, apart from stigmatic shame being more apparent in conference than court because this stands in opposition to reintegrative shaming (Braithwaite, 1989). The expression of stigmatic shame, the disapproval of offenders, stigmatising names, moral lecturing, and offenders being treated as criminals was how stigmatic shame was identified in observations (Sherman *et al.*, 1998). Interview data revealed that offenders considered conferences to be fairer overall than court, except for property offences where findings revealed court was fairer than conference. Offenders felt they could express their views more in conference than court. When offenders were asked if they felt pushed around by others in power, findings revealed that this was less apparent in conference than court, except for shoplifting offences where findings revealed the opposite. Victims found conferences had higher levels of emotional recovery from the offence than court. This project was based on several offence types, some of which did not include victims, and this may have impacted results because of different conference dynamics.

The South Australian Juvenile Justice (SAJJ) project observed 89 family group conferences with young offenders. Interviews were conducted with 97% of young offenders and 89.9% of victims involved before and after the conference and then one year later. Offenders were aged between ten and 17 years old and were referred by the police or magistrate for minor offences, diverting them from court. The restorative justice processes observed as part of this research involved the Wagga Wagga model and the New Zealand model. The Wagga Wagga model is a police-led conferencing process, and the New Zealand model involves two facilitators, one being a police officer. John McDonald, a police advisor proposed the New Zealand model be introduced in New South Wales (Australia) after a link was established between this process and reintegrative shaming (Braithwaite, 1989), resulting in a pilot scheme being developed in 1991 (Daly & Hayes, 2001). Unlike the RISE project, this study focused on conference experiences and no comparisons to court experiences were made. Victims and offenders gave high ratings for procedural justice being present in the restorative justice conference and '80 to 95% of victims and offenders said that they were treated fairly and had their say' (Daly, 2002, p.69). However, unlike RISE there was less evidence of restoration found, apparent in only one-third of conferences. Restoration was measured by assessing the level of remorse expressed by offenders, whether apologies were offered to

victims, whether an understanding of the impact of their crimes was demonstrated by offenders, whether victims understood offenders' circumstances and whether positive movement occurred between victims and offenders (Daly, 2006). Interviews revealed that emotions of victims improved over time, '75% of the victims felt angry towards the offender before the conference, this dropped to 44% after the conference and was 39% a year later' (Daly, 2002, p.71). Additionally, '40% of the victims were frightened of the offender before the conference, this dropped to 25% after the conference and reduced further to 18% a year later' (Daly, 2002, p.72). Interviews with victims conducted one year following conference involvement revealed, '60% said that they had fully recovered from the offence' (Daly, 2002, p.70). Overall, this project found that 90% of offenders were satisfied or very satisfied and 73% of victims were satisfied or very satisfied with the process. Offender satisfaction levels were higher than victim satisfaction levels due to differing perceptions, offenders saw the process as easier than expected whereas victims saw it as harder than expected.

The SAJJ project used observations to assess what degree the conference ended on a 'high' and this was measured using 'a five-point scale from poor to exceptional' (Daly, 2002, p.70), drawing on the degree to which there was movement between the victim and offender towards each other demonstrated in an observable connection being made. Findings revealed, '10% of conferences were rated very highly, 40%, good; and the rest, a mixed, fair or poor rating' (Daly, 2002, p.70). Findings were not based on randomised samples because offenders were selected based on specific offences (violent and property), resulting in selection bias, making it difficult to generalise results. The aim of this study was to choose cases that maximised the presence of victims in conferences, contributing to existing research, particularly RISE which included cases that did not involve victims. RISE and SAJJ found procedural justice present in restorative justice conferences and high levels of victim recovery following involvement. Restoration was found to be more apparent in conferences than court (Shapland *et al.*, 1998); however, when considered on their own, the figures suggested that it was present in less than a third of the conferences examined (Daly *et al.*, 1998). A key difference in these projects was RISE was comparative in nature (comparing court proceedings and restorative justice meetings) and involved a more diverse selection of offence types and offender age ranges. A substantial finding in SAJJ was the small number of conferences found to end on a 'high' whilst most were rated good, mixed, fair, or poor, demonstrating that the transformational nature of the process was not as apparent as advocates would have us believe.

Further research reanalysed quantitative data from the Reintegrative Shaming Experiments (RISE) and the South Australian Juvenile Justice (SAJJ) project, examining how apology and forgiveness featured in the restorative justice process (Blecher, 2011; Hayes, 2006). Apology and forgiveness are important aspects of restorative justice, however, 'they are not essential outcomes of conferencing processes' (Hayes, 2006, p.364). Hayes (2006) limited findings in RISE to property and violent offences because these directly involved victims. Hayes (2006) reported that offenders apologised more in conference than court. There was a total of between half and two thirds of offenders who apologised (Strang *et al.*, 1999). Forgiveness was observed less in conferences; 40% of offenders who committed property offences and approximately half of the offenders who committed violent offences received forgiveness (Strang *et al.*, 1999). Victim reports confirmed these findings where 69% of personal property victims and 54% of youth violence victims said they felt indifferent or 'unforgiving towards offenders after the conference' (Hayes, 2006, p.377). Findings could have been the result of conferences being police led, however, Hayes (2006) pointed out that results were found to be the same in the SAJJ project and the New Zealand conferencing model was not led by police. Hayes, (2006, p.381) called for further research that focused on 'offender-victim dialogue to learn why the core sequences sometimes is not achieved'. As Blecher (2011) reanalysed data from RISE and SAJJ, similar findings were reported that were acknowledged by Hayes (2006). Blecher (2011, p.106) also acknowledged 'a gap in which apologies' were 'somehow not engendering forgiveness' and explained that apology-forgiveness sequences were not successful because of 'process-related causes, offender-related causes, and victim related causes' (Blecher, 2011, p.112). The apparent gap could be 'remedied through procedural adjustment' and what Blecher (2011) proposed was that the offender be the 'primary account-giver' followed by the facilitator 'confirming that account' (Blecher, 2011, 113). The intention for this was to try to prevent offenders from mitigating their account.

Another study examined youth justice conferences in Northern Ireland (Campbell *et al.*, 2005) using observations, and structured and semi-structured interviews to identify strengths and weaknesses within the process, determining the extent to which the stated aims were achieved. The referrals to youth justice conferences were diversionary through the public prosecution service and court-ordered by magistrates. In the conferences examined as part of that research, 'the majority of participating victims were victim representatives (60%), rather than personal victims (40%)' (Campbell *et al.*, 2005, p. 48). Personal victims referred to

individuals directly or indirectly impacted by the offence and victim representatives were there to talk about the impact of the offenders' actions in general despite not being directly impacted by them (Campbell *et al.*, 2005). Findings revealed that when there was no identifiable victim (drug related or driving offences) this 'proved problematic' because the 'structure, language and outcome' was 'very victim/offender orientated' (Campbell *et al.*, 2005, p.69). The example used to illustrate this point referred to an 'offence of disorderly behaviour' where the offender struggled to grasp the 'concept of general public as victim' (Campbell *et al.*, 2005, p.69). This difficulty in understanding was likely to be less apparent if an identifiable victim attended the process. Direct input from victims had a greater impact on young offenders in comparison to impact that was described by a victim representative. When apologies were examined, offenders 'agreed to apologise in 87% of conferences with or without a victim' present' (Campbell *et al.*, p.75). However, those 'who failed to receive an apology were most often persons representing a victim view and not actual victims' (Campbell *et al.*, p.76). Over half (55%) of those who did not express forgiveness 'were victim representatives and community representatives or police officers attending in the cases of a 'victimless' crime' (Campbell *et al.*, p.77). This research made a significant contribution to existing studies because it examined victim representatives attending conferences and the impact that this had on achieving the core sequence of apology-forgiveness. Apologies, remorse, and forgiveness were highly related to the type of victim present in the restorative justice process, being more likely to occur in the presence of a direct victim.

A further study has been conducted that observed 'expressions of contrition and forgiveness' in conferences using qualitative research methods (Halsey *et al.*, 2014, p.1). Halsey *el al.* (2014) observed nine conferences with offenders who were mostly in their early 20's. The offence types varied from 'common assault, indecent assault, criminal damage, illegal use of a motor vehicle, and break and enter' (Halsey *et al.*, 2014, p.5). Interviews were conducted with participants following involvement in the restorative justice process. Findings revealed that when offenders articulated 'auto-biographical vignettes' spontaneously, this 'carried the potential to function as potent devices for cultivating empathy among victims' (Halsey *et al.*, 2014, p.9). The contribution that had the most impact on victims continued throughout the duration of the conference and 'was not simply limited to one or two statements at discrete points through-out the session' (Halsey *et al.*, 2014, p.9). A substantial finding from this research was that victims valued the experience because of their opportunity to participate and be heard. When observations were conducted, attempts were made to capture gestures

and expressions which could have resulted in 'subjectivity in interpreting these qualitative issues' (Halsey *et al.*, 2014, p.5). The observations were conducted by two researchers and although their field notes were compared directly after each conference, interpretations could vary, resulting in different findings. The next study to be reviewed focused on levels of satisfaction experienced by victims.

Focusing on whether the objectives of victim satisfaction were met, Morris *et al.* (1993) interviewed 117 victims and seven victim representatives following involvement in youth justice family conferences. Conferences were based on serious offences such as rape, arson, robbery, and serious assault. The findings revealed that close to 60% of victims saw the conference as helpful, positive, and rewarding. Victim's reported having a voice in outcomes and being able to assess the likelihood of the offence reoccurring as benefits to being involved in the restorative justice process (Morris *et al.*, 1993). Despite positive feedback, findings revealed that about a quarter of victims felt worse after being involved in the process and 'expressed feelings of depression, fear, distress and unresolved anger' (Morris *et al.*, 1993, p.312). Those who felt worse said there was a lack of support in family group conferences and some dissatisfied victims wanted offenders to experience harsher punishments. Punishment is not associated with restorative justice, but the expectation of victims demonstrates the impact criminal justice has on shaping the views of how crime should be responded to in a punitive way, impacting the levels of satisfaction experienced by victims. The overall conclusion of this study was that half the victims were satisfied with the restorative justice process and half were not. Findings could be a result of the interviews taking place directly after attending the meeting, because negative feelings could change over time. The SAJJ project revealed that victims felt worse immediately after the conference, but this improved over time.

Levels of satisfaction were measured differently for victims and offenders in each research project because they occupy structurally different roles, therefore a single measure of satisfaction was not possible. When measuring rates of success for restorative justice, for victims this was determined by levels of satisfaction and for offenders it was based on rates of reoffending. Offender satisfaction might be expressed through a willingness to engage in restitution schemes and perceptions of fairness of the process.

To conclude the findings highlighted in this section, procedural justice was present in the restorative justice process and the consensus was that many victims recovered from the

effects of the crime following involvement in the restorative justice activity (Daly *et al.*, 1998; Sherman *et al.*, 1998). There was less evidence of restoration (Daly *et al.*, 1998) and stigmatic shaming was present in some meetings (Sherman *et al.*, 1998). Around half the victims involved were satisfied with the meeting whereas half were not (Morris *et al.*, 1993), and one project found that that the emotional element of restorative justice was not as evident as advocates suggest (Daly, 2002). The next section will review research that focused on the relationship between emotions and the restorative justice interaction.

2.6 The Emotional Dynamics of Restorative Justice

Previous theoretical perspectives have suggested the importance of emotions, particularly shame and guilt in the restorative justice process. It is argued that these emotions play a significant part in creating experiences that are expected to generate good results in terms of reducing rates of reoffending and promoting satisfaction amongst victims and offenders. There has been a lack of focus on the micro dynamics of the restorative justice meeting, demonstrating how this potentially emotional transforming experience takes place. Rossner (2011; 2013) focused on the emotional and interactional dynamics of one restorative justice conference attended by an adult offender. This research was rich in detail and looked at restorative justice in a way that no others had. The theoretical framework was clearly defined, and the conference was analysed using Collins' (2004) interaction ritual chain theory, describing the restorative justice process as a ritual. Four main ingredients were identified as part of a successful ritual:

1. Group assembly
2. Barriers to outsiders
3. Mutual focus of attention
4. Shared mood (Collins, 2004, p.31).

According to Collins, the short-term effects of a successful interaction ritual are marked by displays of solidarity, demonstrated when people synchronise their body movements and take part in conversational turn-taking. The long-term effects involve an 'interaction ritual chain' (Collins, 2004) where emotional energy generated from the initial process (the restorative justice conference in this instance) is sought out in future situations, which could be key to preventing reoffending. Rossner employed a coding scheme used to identify the emotions revealed on the faces of the participants in the meeting she observed (Ekman & Friesen, 1975; Ekman & Rosenberg, 1998) and a modified version of conversation analysis was

utilised to examine conversational rules and turn-taking (Sacks *et al.*, 1974) and non-verbal cues. Her study transcribed the conference following some conversation analysis conventions, giving recognition to turn-taking arrangements in the talk. The restorative justice conference was described as 'successful', being transformed from negative to positive emotions demonstrated by group solidarity, changes in facial expressions and shifts in conversational rhythm, all of which represented what was referred to as the 'interaction ritual' (Collins, 2004).

Contributing to existing studies, intricate forms of the restorative justice interaction were observed that moved away from quantitative measures of reoffending and levels of satisfaction. Rossner (2013) also reanalysed quantitative data from the Reintegrative Shaming Experiments (RISE) to see if the emotional dynamics observed in a single meeting could also be found in a much larger sample. This was assessed by measuring ritual ingredients in conferences including balance, stigmatisation, and defiance. Balance was measured by examining how much offenders contributed to the interaction and whether they were dominated in the process. Stigmatisation was measured by examining whether offenders were treated as criminals and defiance was measured based on offenders accepting responsibility for their actions or blaming others. In addition, ritual outcomes were measured including reintegration, solidarity, and emotional energy. Reintegration was measured based on the support and approval offenders received. Solidarity was measured based on apologies and demonstrations of remorse from offenders and forgiveness from victims and emotional energy was measured based on offenders appearing uncomfortable. Findings revealed that when balance was less apparent in conferences, lower levels of solidarity, emotional energy and stigmatisation occurred. When conferences experienced high levels of stigmatisation, lower levels of solidarity, emotional energy and stigmatisation were apparent. And when high levels of deviant behaviour occurred this resulted in lower levels of solidarity and reintegration but had no impact on the level of emotional energy.

Conferences were then rated 'high' or 'low' on solidarity, reintegration, and emotional energy (Rossner, 2013, p.132) and these outcome rituals were used to measure prevalence and frequency of reoffending. Findings revealed that solidarity and reintegration had an impact on whether participants were rearrested and when offenders were not rearrested, high levels of solidarity and reintegration were apparent in conferences. Results did not find a link between emotional energy and rearrest, but this may have been 'due to the way emotional

energy was measured in this data' (Rossner, 2013, p.135). This research has shown that conference dynamics result in ritual outcomes being achieved which have a direct impact on rates of reoffending. Therefore, further research is needed that examines the restorative justice interaction in more detail. Rossner (2013, p.101) examined the core sequence of apology and forgiveness and findings revealed that because these exchanges were 'written into the script' it resulted in an 'almost guaranteed' apology in 'almost every case'. In successful conferences, 'seven out of nine apologies were accepted' and in less successful conferences, 'less than half' were accepted and were 'interpreted by victims as insincere' (Rossner, 2013, p.102). These findings confirmed that formalising the apology in the script lessened the strength of the core sequence which is an important aspect of the restorative justice process that requires further analysis.

Reports demonstrate how facilitators often observe personal transformation during the restorative justice process (McCold, 2000), but how often does this occur? Rossner and Jasmine (2018) conducted research that examined different types of conference dynamics. This research focused on 34 in-depth case studies of adult offenders who entered a guilty plea or received a guilty verdict and were referred to restorative justice by magistrates in Australia. Data collection occurred over a period of six months and observations, interviews and administrative data were used. Moving away from the idea that restorative justice conferences were 'successful' or 'unsuccessful', this study focused on the dynamic nature of each encounter. The restorative justice conferences were coded considering how the trajectories started and developed in later stages, assessing whether consensus grew or separated. Five types of conference dynamics were revealed: 'mythical, civil, drained, salvaged, or divisive' (Rossner & Jasmine, 2018, p.510). 'Mythical' represented a move from 'initial struggle' to participants working 'together to develop a shared story of accountability and harm' which resulted in the achievement of the core sequence of apology-forgiveness (Retzinger & Scheff, 1996), and 'eight out of 34 cases fit this model' (Rossner & Jasmine, 2018, p.510). 'Civil' was 'marked by a respectful dynamic where participants' were 'amicable' with each other, quickly agreeing on outcomes but there was 'little sign of emotional transformation', and 13 conferences fit this model (Rossner & Jasmine, 2018, p.511). 'Drained' referred to participants being drained of emotional energy, demonstrated in lost momentum, boredom, or restlessness, and four cases reflected this model. 'Salvaged' referred to disputes remaining unresolved with a demonstration of teamwork still present, and this model was found in four conferences. 'Divisive' referred to conferences that were

volatile and disputes remained unresolved resulting in unsatisfied participants and this reflected five cases.

The restorative justice conferences observed in Rossner and Jasmine's study were organised within the structure of the judicial sentencing process; therefore, offenders did not volunteer to be involved. Other studies have found that the motivation of offenders to attend was found to be an important factor in helping reduce reoffending rates (McCold & Wachtel, 1998) and if offenders attended based on conditions set by court this may have affected their behaviour during the process and impacted results. Arguably, emotionally transforming experiences may be more likely to occur when offenders volunteer to attend rather than involvement being based on conditions set by the court. Despite claims that restorative justice was emotional in nature (Braithwaite, 1989; Harris *et al.*, 2004; Retzinger & Scheff, 1996; Van Stokkom, 2002), Rossner and Jasmine (2018) demonstrated the many ways that conferences unfolded showing a clear difference between theory and practice. They found that the emotionally transforming experience occurred in only five out of 34 conferences, and that the highest number of conferences reflected the civil type where outcomes were achieved but there was a lack of emotional energy (Rossner & Jasmine, 2018). The recommendations that were provided implied that some conference types were considered 'successful' whereas others were considered 'unsuccessful', limiting attempts to move way from ideas of 'successful' and 'unsuccessful' conferences. Rossner and Jasmine (2018, p.515) argued that conferences should still be 'symbolically successful' when those involved worked together 'to develop a shared narrative and understanding of the offence'. This section has identified the significant part that conference dynamics played in contributing to the achievement of outcomes (Rossner, 2013). In addition, findings revealed that conference types varied based on the dynamics of the participants (Rossner & Jasmine, 2018). The next section will examine research that focused on the roles that victims and offenders adopted in the restorative justice process.

2.7 Victim and Offender Role-Taking in Restorative Justice

Research conducted by Asmussen (2015) observed twelve victim-offender mediation sessions taking place prior to sentencing and including different offence types such as: violence, threats against a person, burglaries, theft, and a neighbour dispute. Interviews were conducted up to 20 days following involvement in the mediation process and questions asked focused on what participants thought about their involvement, other participants, and the

mediator. Interviews were also conducted a year later to see if views and perceptions had changed (Asmussen, 2015). The theoretical backdrop of this research was Foucauldian, based on the idea of Christian transformation being achieved through leadership, examination, confession, obedience and working towards individuals renouncing themselves which was comparable to death but not in the literal sense (Foucault, 1982). The process of participants renouncing themselves was based on the obligation of self-disclosure and restorative justice was 'seen as part of self-disclosing truth-telling' (Asmussen, 2015, p. 32). The methods used drew on Goffman's role theory to understand how individuals adopted and acted out roles during the interaction, on conversation analysis to promote an understanding of social order, on positioning theory to see how identities were produced and performed, and on discursive psychology to observe the psychological themes in talk.

When participants positioned themselves in ways that followed a certain pattern this was referred to as 'lines' (Goffman, 1967, p.2) and performing a blend of positions was referred to as 'multi-positions' (Goffman 1961, p.61). Findings revealed that the lines perpetrators took included '*the exemplary perpetrator* and *the resentful perpetrator'* (Asmussen, 2015, p.30). Exemplary perpetrators expressed 'themselves as perceiving, honest, regretting and apologising' (Asmussen, 2015, p.32), often using metaphors that referred to the death of their old selves and to the obligation of truth-telling in renouncing the self. Resentful perpetrators positioned themselves as victims of unfair treatment, claiming to be misunderstood by others (Asmussen, 2015). The lines victims took were '*the altruistic victim, the therapeutic victim, and the uncompromising victim'* (Asmussen, 2015, p.30). The altruistic victim expressed 'empathy, understanding, non-condemnation and forgiveness' (Asmussen, 2015, p.34) and took on a parental role that involved helping the offender, downplaying the impact the offence had on their life and positioning their own needs as insignificant. The therapeutic victim accepted feelings of anger but understood the importance of the offender talking about being let down and how that resulted in criminal behaviour. The uncompromising victim felt angry towards the offender, struggling to accept the techniques of neutralisation used to excuse their behaviour. The ideal roles were perceived to be the exemplary perpetrator who repented and the altruistic victim who was forgiving. The resentful perpetrator and the uncompromising victim resisted these expected roles. This study highlighted the important role that mediators played in directing the participants to assume certain lines, helping them to express emotions and moulding them towards reconciliation. The victim and offender were found to be 'mutually dependant; on each other to achieve absolution' (Asmussen, 2015,

p.34). The offender needed to confess in the presence of the victim and the victim needed to understand the offender to move on, showing the significant part that the talk played in achieving absolution.

Because the study only observed twelve victim-offender mediation sessions, the generality of the findings is difficult to establish. Conversation analysis was claimed to have been used to examine the data but the transcripts that were included did not use techniques reflecting this method. Transcripts were mostly taken from interviews rather than mediation sessions, therefore the positions that victims and offenders took were identified from this material. When examining positions, it may have been more beneficial to use data from the mediation sessions themselves. It was assumed that certain lines victims and offenders took promoted future law-abiding behaviour by working on the inner conscience. This was an assumption because the study did not measure rates of reoffending after involvement with the mediation sessions. This section has identified the roles that participants in the restorative justice interaction take, demonstrating what roles were more effective in achieving objectives. Victims and offenders adopt different roles in relation to each other. The next section will examine the participation rights of victims and offenders, identifying any differences and discussing what this demonstrates.

2.8 Victim and Offender Participation in Restorative Justice

Victim and offender restoration involves both parties being placed in a position to have their stories heard (Braithwaite, 1989) therefore, participation is an important part of the restorative justice process. This idea stands in opposition to the criminal justice process which rarely awards this opportunity. Gerkin (2009) observed the levels of participation of victims and offenders in 14 mediation sessions, five being family group conferences and the rest victim-offender mediations. Offenders were referred to restorative justice by the police or court for a variety of different offences; however, most referrals were property-related closely followed by violent offences. A total of 16 victims in 14 mediation sessions were observed and findings revealed:

> Eight of the victims were observed as having high level participation, three of the victims were placed in the medium participation category and the remaining five victims were categorised as having a low level of participation (Gerkin, 2009, p, 234).

Those with high levels of participation had a pre-existing relationship with the offender which contributed to victims lecturing offenders in four mediation sessions. Victim lecturing involves victims talking down to offenders in a superior way from a place of perceived authority. It is important that those who participate in the restorative justice process do not experience degrading or humiliating treatment (Braithwaite, 1996), but in these instances that is what happened.

The questions asked by mediators contributed to victims dominating the agreement writing phase of the process. Agreements were created by victims that exceeded the scope of the offence, revealing attempts to punish offenders. These findings were like some found in the SAJJ project (Daly *et al.*, 1998) and research conducted by Morris *et al.* (1993) where victims were dissatisfied with the process because they wanted offenders to receive harsher punishment, showing how the process was influenced by the views and values upheld in society that equates justice with punishment (Shapland *et al.*, 2011). Zehr (1990) (cited in Gerkin, 2009, p. 239) said, 'one must be able to examine crime through a restorative lens' which requires seeing 'crime and the potential responses to crime in a new way' therefore moving away from the idea that the response to crime should be punishment. Changing the lenses of the participants would involve adequately preparing them for the process they are about to embark on.

Findings revealed that 'seven offenders from four mediations' were observed to be in the 'high participation category', six offenders in five mediation sessions were observed to be in the medium participation category and seven 'offenders from five mediations' were observed to be in the 'low participation category' (Gerkin, 2009, p.236). Offenders observed to be in the high participation category were not consistently involved throughout, involvement was more apparent at the start of the process where accountability was the focus. Three out of the four offenders who experienced victim lecturing were in the low participation category. Offenders did not express their needs and the questions asked by the mediators in the agreement writing stage focused on eliciting their agreement to what victims wanted from them. Mediators played a significant role in managing the interaction by using questions which had an impact on the participation levels of those involved.

Further research was conducted that examined a restorative cautioning initiative that was set up by the police (Hoyle *et al.*, 2002). After cautions were administered, the police invited those affected by the offence to attend a meeting. Observations and interviews were

conducted, and findings revealed that only 'two of the 23 cases' were defined as being 'restorative in nature' (Hoyle *et al.*, 2002, p.13). The other cases moved away from restorative justice principles because facilitators were found to dominate the exchanges, accounting, 'for half of all words spoken' (Hoyle e*t al.*, 2002, p.13). Facilitators used their position to extract apologies from offenders in 'a fairly coercive way' (Hoyle *et al.*, 2002, p.14) and when apologies did not occur, facilitators heavily pressurised offenders into apologising.

The findings revealed by Gerkin and Hoyle *el al.* highlighted that offenders' needs were given less consideration than victims' needs, contradicting the expectation that restorative justice is a 'needs based' approach (Sullivan & Tifft, 2001). Could restorative justice ever truly apply equal treatment to both parties, enabling them to restore the status quo? The typical motives for being involved in the process were likely to be different for the victim and offender. The victim may be seeking answers and emotional reparation and the offender may want to repair the harm caused. Despite the differences in needs and motives, parity of treatment would involve equal participation demonstrated in opportunities to talk and share the decision-making process. Restoring the status quo might be part of the restorative justice philosophy but whether this happens is questionable because once an offence has occurred it cannot be erased; however, practically it is possible to restore a civil relationship. It has been argued that domination should not be part of the restorative justice process and if it occurs, attempts to prevent it need to be made (Braithwaite, 1996). Gerkin's findings revealed the presence of domination in the form of victim lecturing, going against this principle. While his study was limited by the small number of cases used, making it difficult to claim generality for his findings, Gerkin (2009) argued that assuming all mediators are provided the same training and follow procedural guidelines then these observations would represent the mediation process within the centre in which they took place.

In addition, research was conducted that involved 'in-depth qualitative interviews with 47 participants in family group conferences and six professionals' (Zervona, 2007, p.60). All referrals to the restorative justice process were made through the youth offending team. Findings revealed that victims felt that the purpose of being invited to the conference was 'less to benefit them and more to benefit offenders' (Zernova, 2007, p.70). The purpose of victim involvement was perceived to be based on contributing to offender rehabilitation, which was the aim of the youth offending team, the scheme this process fell under. Victim

participation was found to be limited in this study, and a 'considerable number of conferences went ahead, even though victims did not attend' (Zernova, 2007, p.71).

Additional research has been conducted by Cook (2006) who observed twelve diversionary restorative justice conferences over a six-month period in Australia. Cook also conducted interviews with 16 conference coordinators. The theoretical backdrop of this research was gender theory and social action theory. The idea of 'doing gender' is based on gender being psychologically ingrained in us, resulting in its social construction through social interactions (Cook, 2006, p.107). Structured action theory follows the same premise, only it includes other categories such as race and class. Cook (2006, p.107) analysed offender accounts and the 'gendered participation of parents and community representatives'. Cook (2006, p.109) argued that accountability was the 'missing link', and this was how power was maintained through 'social structural inequalities'. Accountability involves some individuals scrutinising others 'who are then obliged to respond to that scrutiny, thus exercising power over the definition of the situation and the people involved' (Cook, 2006, p.109). Cook (2006, p.120) found 'social categories of difference' were apparent in the restorative justice process and were 'used as subtle devices of domination'. Empowerment involves allowing participants to speak freely in the conferences and Cook (2006, p.121) argued that 'one person's truth must be appropriate to the rituals of restorative justice'. Offenders were 'coaxed' into explanations of accountability (Cook, 2016, p.121) and their own expressions were 'contested, rebuffed or dismissed' which resulted in them being disempowered in the process (Cook, 2006, p.121). Cook (2006, p.121.) concluded that analysts need to question the impact that this 'scrutiny' has on the 'empowerment' of those involved. Like Gerkin (2009) this study was limited to a small number of cases, making it difficult to claim generality for the findings. This section has shown that offenders participate the least in the restorative justice interaction (Gerkin, 2009) and when they do talk, they are encouraged to do so in a particular way (Cook, 2006; Hoyle *et al.*, 2002). The mediator's questions contributed to offenders' limited participation rights (Gerkin, 2009) which relates to the procedural dynamics of the process because questions are taken from the script that form the order of the interaction. Research was found that revealed instances where victim participation was limited (Zernova, 2007) and this reflected the nature of the restorative justice scheme. The next section will review research that focused on the procedural dynamics of the restorative justice process.

2.9 The Procedural Dynamics of Restorative Justice

Zappavigna and Martin (2018) used Hallidayian discourse analysis to analyse the talk found in youth justice conferences where offenders were referred by police or youth magistrates following an admitted offence. Discourse analysis examines how written and spoken language relates to its social context and speech is seen as performative because it achieves actions. In restorative justice conferences, negotiations 'unfold through the interplay of words, facial expression, gesture, movement, dress, and seating arrangements' (Zappavigna & Martin, 2018, p.3). Through communication, offenders are called upon to demonstrate responsibility, which reduces the fear and anxiety experienced by victims. The purpose of their study was to account for the way participants interacted with each other through spoken discourse and negotiated new identity scripts that promoted offender reintegration and future law-abiding behaviour (Zappavigna & Martin, 2018).

Zappavigna and Martin used one type of discourse analysis that derived from the Systemic Functional Linguistics (SFL) tradition which created tools for understanding and making meaning in language and communication. Referring to Halliday and Matthiessen (1999; 2004), Zappavigna and Martin (2018) identified strands of meaning that shaped language use. Language constructs 'our experience of the world around us' and enables us 'to interact with other language users' (Zappavigna & Martin, 2018, p.28). There are also resources available that we use to control the flow of interaction (Zappavigna & Martin, 2018).

The language patterns that participants choose to use enacted what was termed 'genre'. Genre is characterised by SFL as a goal-orientated social process that is used to get things done (Martin & Rose, 2008). The restorative justice conference followed a distinctive genre structure which staged the event, including larger and more complex genres referred to as macro-genres (Martin & Rose, 2008), attempting to achieve an outcome plan and some form of reconciliation (Zappavigna & Martin, 2018). The facilitator played a significant role in managing the interaction and influencing the language used.

The restorative justice process was found to be more procedural than emotional suggesting previous research had been looking in the wrong place for its transformational nature (Zappavigna & Martin, 2018). Zappavigna and Martin (2018, p.288) referred to Lewis' (2008) criteria for determining whether the conferences were ritual or ritual-like that were based on:

> Five dimensions: Importance (is the event of ultimate concern?), social consensus (which parts of society are involved?), mode of participation (how do we engage in the event?), past orientation (which relation does the event have to the past?) and encompassment (what is the scope of the event?)

This led to Zappavigna and Martin (2018, p.288) concluding that conferences were 'ritual-like', not meeting the 'full blown ritual criteria'. The restorative justice conferences were observed as 'micro-genres' that moved 'through a series of elemental genres in order to ratify an outcome plan; and 'enact some form of reconciliation' (Zappavigna & Martin, 2018, p. 124). The process began with an account from the offender and the microgenre was referred to as testimony and included the genre of a commissioned recount. What followed this was the victim account which was the genre of a reflective recount. These phases promoted an understanding that contributed to the microgenre of reintegration which involved 'certain tasks such as formal apology, payment of some monetary compensation, volunteer work in a community organisation and so on' (Zappavigna & Martin, 2018, p.118). It was argued that language and genre had the power to create self-disciplining subjects thereby promoting appropriate behaviour in the future (Zappavigna & Martin, 2018). This was achieved by negotiating the script of the offender throughout these stages, using language to help the offender see things differently. It was suggested that the transformational procedural element of the restorative justice conference related to how language was used to transform the offender's way of thinking, resulting in reduced reoffending. This point is a possibility, not an actuality and lacks evidence because the rates of reoffending were not measured as part of this research.

The focus of Zappavigna and Martin's research was youth justice, and the findings could therefore differ if adult offenders were observed. Could scripts be negotiated in the same way if adult offenders were present as opposed to young offenders? Answering this would require more research in different restorative justice contexts. Language and genre were focused on in relation to offender reintegration and the reduction of reoffending, but the objectives of the victim were not considered. The procedural element of restorative justice was achieved through talk and yet the focus was on the language used to negotiate the offender's script, not the talk apparent between all the participants involved. Discourse analysis constructs meaning through text, studying larger linguistic units which misses out the finer details of talk. Applying the method of conversation analysis to this process would address this problem by looking at how actions were performed and achieved through talk.

The next section will discuss Tyler's (1990) work on 'procedural justice' which relates to the perceived fairness of a process that creates a positive attitude towards authorities and law and promotes future law-abiding behaviour. Procedural justice shares similarities with restorative justice because both deal with crime through reintegrative shaming (Braithwaite, 1989), demonstrating disapproval of the criminal act but showing respect for the person that committed it. Such shaming, like procedural justice, attempts to strengthen social values, helping people feel more connected to feelings of responsibility to others and their community therefore reducing future crime (Tyler, 2006). Tyler *et al.* (2007) conducted a study that assessed the impact conference characteristics such as the level of procedural justice and the presence of reintegrative shaming had on rates of reoffending. Studies that focused on the police and courts (Tyler, 1990; Tyler & Huo, 2002), suggest that people accept the constraints of the law based on their perceptions of procedural justice within these processes. Involvement in a process must be viewed as legitimate, based on perceptions of fairness, promoting a 'buy in' approach from offenders to comply with the law in the future (Tyler, 2003).

Tyler *et al.* (2007) reanalysed the quantitative data from the Reintegrative Shaming Experiments (RISE) and the data collected relied on randomised control groups assigned to court and conference for drink-driving related offences. Police reports and self-reports from offenders revealed that statistically, procedural justice and reintegrative shaming had no impact on rates of reoffending (Tyler *et al.*, 2007). However, participants in conferences judged the process to be more procedurally just and felt more emotions associated with reintegrative shame than participants involved in the court process. The presence of procedural justice and reintegrative shaming had an impact on offender's views about the law being legitimate, acknowledged by offenders in self-reports about their efforts to try to not drive whilst drunk, impacting rates of reoffending (Tyler *et al.*, 2007). A substantive finding in this research derived from the fact that drink-driving related offences had no clear victim resulting in no victim being present in the restorative justice process. Reintegrative shaming was most effective when a victim was attending because feelings like guilt and remorse were easier to work with in those instances. The conclusion from this study was inappropriate because reintegrative shaming was not as effective under these circumstances, therefore claiming that it had not impact on rates of reoffending was not a clear representation. These findings could also be the result of the models for restorative justice processes being poorly implemented. (Tyler *et al.*, 2007). The research in this section examined how participants

interacted with each other through spoken discourse to achieve reintegration (Zappavigna & Martine, 2018) and how perceived fairness in the restorative justice process reduced reoffending (Tyler *et al.*, 2007). Dialogue has been identified as the central part of restorative justice that contributes to outcomes being achieved. The next section will examine research that focused on the role of talk in restorative justice.

2.10 The Role of Talk in Restorative Justice

Jacobsson et al. (2012) observed the role of talk in 25 victim-offender mediation sessions attended by young offenders who had confessed to a crime reported to the police. Conversation analysis was used to observe specific patterns of the victims' speech, role type and 'position taken in relation to the offender' (Jacobsson *et al.*, 2012, p.229). Conversational styles were examined, and the speech frequency of each participant were considered by counting the number of words used during the interaction. Consideration was given to the conversation and whether it was 'balanced in terms of symmetry/asymmetry' and whether it reflected cooperative or competitive styles of talk (Jacobsson *et al.*, 2012, p.233). Symmetry relates to participants in an interaction maintaining a similar approach to each other in positive or negative ways and asymmetry refers to each participant holding a different status. The intention of examining asymmetrical relationships was to identify the participants role and power distributions on both sides. Cooperative conversation involves participants working together to achieve a common goal and competitive conversation is conflicted and resistant, resulting in difficulty achieving an objective.

Jacobsson *et al.* (2012, p. 234) referred to Linell (1998) who 'finds asymmetry happens more often than symmetry in conversations and identifies four different types of discourses':

1. Symmetrical and cooperative which involves participants being active in the interaction and mutually inquiring.

2. Symmetrical and competitive which involves participants not listening to each other, resulting in conflict.

3. Asymmetric and cooperative which involves each participant holding a different status, resulting in one person leading the interaction and asking the questions and the other responding submissively.

4. Asymmetric and competitive which involves one participant leading the interaction whilst the other demonstrates resistance (Jacobsson *et al.*, 2012).

The roles adopted by victims were categorised in three ways; moral victims 'were eager to influence offenders in a certain kind of way' that reflected moral societal values (Jacobsson *et al.*, 2012, p.236). Moral victims were divided into two parts, moral personal victims who were emotionally affected by serious crime (assault and robbery) and moral collective victims who were not personally involved in the crime and used a direct speech style. Moral personal victims were present 'in six out of seven mediations' (Jacobsson *et al.*, 2012, p.236) and moral collective victims were present in seven mediations. Moral victims 'used an asymmetrical and cooperative type of discourse' because of the direct speech style used to influence and change offender's attitudes (Jacobsson *et al.*, 2012, p.236). Moral victims held powerful positions but worked with the offender in a cooperative way. The second category was referred to as 'consensus-oriented victims' who used a 'symmetrical and cooperative' type of discourse with no power imbalance, attempting 'to reach a mutual understanding', and this was evident in three cases (Jacobsson *et al.*, 2012, p.239). The final category was referred to as 'victims in opposition' who used a symmetrical and competitive discourse type which was direct and confrontational and did not listen or reflect on what was being said, observed in eight cases. These categories highlighted 'power distribution' through the speech exchanges of victims in the restorative justice process (Jacobsson *et al.*, 2012, p.233). Power distribution was defined as participants that had 'primacy in interpreting the events' (Jacobsson *et al.*, 2012, p.233). Moral victims and victims in opposition both held more power over the offender in the interaction. When examining the speech frequency of the participants, findings revealed that the 'mediators talked for 34% of the time, victims 39%, offenders 26% and others 1%' showing victims had the most opportunity to speak (Jacobsson *et al.*, 2012, p.236), thereby not allowing offenders equal participation rights. The quantity of talk however, 'does not mean that the speaker has more power (Jacobsson *et al.*, 2012, p.233).

If restorative justice is based on participants working together to develop a 'shared narrative and understanding of the offence' (Rossner & Jasmine, 2018, p.515), Jacobsson *et al.*'s project only focused on 'how victims interact, communicate, and position themselves in relation to the offender', (2012, p.229). The collaborative nature of the restorative justice process was not examined and further research in this area is required. Rossner (2011; 2013)

concentrated on the collaboration of all the participants involved in the restorative justice conference, but her focus on emotions displaced the attention to talk. There has been no research to date that focuses on the talk of all the participants involved in the restorative justice process.

2.11 Conclusion

Research has found that some restorative justice conferences had an impact on rates of reoffending and participant satisfaction. Further research is needed that focuses on the finer details of the interaction, helping to illuminate what is happening and showing how to improve future practice which will have an impact on subsequent outcomes.

The restorative justice process is centred around dialogue and Umbreit *et al* (2007, p.39) suggest 'it is necessary to continue to struggle with how to tap the multiple experiences taking place when participants gather to engage each other in dialogue.' I argue that to tap these multiple experiences that are taking place within the restorative justice meeting, the talk itself needs to be closely observed and examined using the method of conversation analysis. There has been no research conducted to date that focuses on the talk of all the participants involved in the restorative justice process. A study has, however, been conducted by Garcia (1991) focusing on the talk that occurred in mediation sessions. Mediation is a process that involves two parties coming together to resolve a dispute in the presence of a third party. Mediation and restorative justice meetings are structured in similar ways whereby the participants are allocated time to talk without interruption and the third party is responsible for managing the interaction. However, the meeting objectives vary, mediation intends to resolve a dispute between two parties whereas there is a clear victim and offender in restorative justice. Conversation analysis allowed Garcia (1991) to observe the interactional organisation that accomplished stated objectives. The details of Garcia's study will be explored in Chapter Three because it will demonstrate how conversation analysis was used to illuminate the talk in an interaction.

Research has found that the talk and procedural dynamics (Zappavigna & Martin, 2018) play a significant part in achieving objectives, leaving room for further analysis of the conversations that take place within the process. Rossner (2013) observed a lack of balance in the restorative justice conferences she examined where offenders' participation was limited, and they were dominated in the process. Similar findings were revealed by Gerkin (2009) and

Jacobsson *et al.* (2012) which showed that offenders talked the least in the restorative justice encounters examined in comparison to other participants. Cook (2006) found that the talk of offenders was scrutinised, resulting in reduced empowerment in the process. These findings have highlighted a need for further research that focuses on the participation rights and asymmetry of the participants in the restorative justice process. This is an important area of focus because conference dynamics have an impact on ritual outcomes such as reintegration and solidarity which impacts rates of reoffending (Rossner, 2013). Mediators played a significant role in managing the interaction by using questions (Gerkin, 2009) and the way that questions were constructed shaped the explanations offered by offenders (Cook, 2006). The way that questions are asked in the restorative justice process therefore requires further investigation.

I intend to look in detail at the talk in restorative justice meetings, using conversation analysis to see if what emerges resembles findings from the studies examined in this chapter. Conversation analysis will be a good method to study the nature and characteristics of the discursive exchanges between the offender, victim, and facilitator. By exploring the finer details of the talk as it unfolds in the restorative justice meeting, a contribution to existing literature will be made that will allow for a development 'of better theory and practice to improve the efficiency and effectiveness of restorative justice' (Rossner, 2008, p.1737). The next chapter will look at conversation analysis and explain how this method will be applied to the restorative justice meetings.

Chapter 3

Conversation Analysis

3.1 Introduction

Conversation analysis is a sociological approach that analyses the structures of interaction at a micro level, initially focusing on naturally occurring talk and then turning its attention to talk in institutions finding that 'participants build the context of their talk in and through their talk' (Heritage, 2005, p.4). This chapter begins by surveying the origins and development of conversation analysis. I review conversational tools that are used to examine and establish identifiable differences between naturally occurring conversation and institutional talk. I examine research that applied conversation analysis to mediation sessions because this closely resembles the current project. I identify limitations to conversation analysis as an approach whilst highlighting how unique it is in viewing interactions in a rich and detailed way. The chapter will conclude with an overview of the research project, including questions that will guide the analysis and show how conversation analysis will be used to contribute to existing gaps in restorative justice research.

3.2 What is Conversation Analysis?

Conversation analysis 'is the systematic analysis of talk produced in everyday situations of human interactions' (Hutchby & Wooffitt, 2008, p.11) that is recorded and transcribed. Transcriptions include what people are saying and a specific set of symbols that highlight speech patterns. Conversation analysis intends to 'discover how participants understand and respond to one another in their turns at talk' and how social activities are accomplished through talk (Hutchby & Wooffitt, 2008, p.12).

3.3 The Origins of Conversation Analysis

Conversation analysis was inspired by studies in ethnomethodology (Garfinkel, 1967) which focused on how social order was produced in and through participants' shared sense-making practices. The idea is that there is a degree of 'taken for grantedness' in everyday life that has largely been unexamined sociologically. Ethnomethodology is a 'bottom-up approach' that

sees social organisation achieved through the collaboration of 'societal members', exploring methods that they 'use to produce' and understand social order (Maynard and Clayman, 2003, p.174). Conversation analysis, like ethnomethodology, is a bottom-up approach that shares an interest in common sense reasoning; however, the focus is specifically on talk in interactions. Ethnomethodology led to the founding of conversation analysis, developed by Harvey Sacks, Emanuel Schegloff and Gail Jefferson in the late 1960s. Sacks' interest in naturally occurring talk involved attending to words as they are uttered and recording all mistakes that occurred, examining talk exactly as it is spoken and heard.

Sacks (1992) first became interested in talk when listening to, and recording, conversations that developed on a suicide helpline. The following examples illustrate what Sacks identified as the rules of conversational sequence.

```
Example 1 (Sacks, 1992:3)
    1    A       Hello
    2    B       Hello


Example 2 (Sacks, 1992:3)
    1    A       This is Mr Smith, may I help you
    2    B       Yes, this is Mr Brown
```

The exchanges in these calls were between two people who had not spoken to each other before, involving a member of staff from a psychiatric hospital and someone calling about themselves. It had been noticed that some people calling the hospital would not provide their names, which led staff to wonder if there was anything that could be done about this (Sacks, 1992). Sacks observed that, if staff used 'This is Mr Smith, may I help you' and were not answered with something like, 'Yes, this is Mr Brown', then there would be 'serious trouble getting the caller's name', if at all (Sacks, 1992, p. 4). Sacks (1992) identified 'rules of conversational sequence' to explain this phenomenon. He found that there was usually a fit between what the first person said and how the second person responded. There would sometimes be 'serious trouble' (Sacks, 1992, p.4) in the talk which will be examined in Example 3. Examples 1 and 2 show that the second person mirrors the first by saying 'hello' and offering their name ('Mr Brown') in response to the caller's name being given ('Mr Smith'). This was identified as a 'procedural rule' where the first speaker chooses their talk

and the talk the other uses in response (Sacks, 1992, p.4). These two units of talk demonstrate the procedural rule, whereas the next example does not.

```
Example 3 (Sacks, 1992:6)
    1     A       This is Mr Smith, may I help you
    2     B       I can't hear you.
    3     A       This is Mr Smith.
    4     B       Smith
```

In Example 3, B did not mirror A, but instead reported, 'I can't hear you', which was referred to as an 'occasional device' (Sacks, 1992, p.7). This device was used to encourage A to repeat what had already been said ('This is Mr Smith') resulting in B being placed in a position to mirror what A had said again ('Smith'). When A repeated his name, this fitted where B's name would ordinarily appear, highlighting B's failure to follow the procedural rule. Once the opportunity had been missed to obtain the caller's name it became hard to retrieve the name subsequently. These units of talk demonstrated rules of conversational sequencing and showed a level of detail that only conversation analysis can provide.

Following this, Sacks wondered whether, as Arminen later expressed it, talk could 'be analysed as being composed of methodical ways of doing things up to this level of detail?' and whether talk could 'be reduced to a set of methods and procedures through which given tasks were performed?' (Arminen, 2005, p. 13). There are certain points within interaction where specific actions are expected. Utterances perform actions which invite a particular kind of next action and these activities are achieved in pairs: greetings, questions-answers, invitations–acceptances/refusals, and so on. Conversation analysis is animated by disinterested questions about the organisation of conversation; it discovers and describes the structures of talk and identifies activities that are accomplished through talk.

Conversations are seen as orderly, not just by those observing them but by the participating members (Schegloff and Sacks, 1973; Sacks, 1984) and this orderliness is the product of interactional 'devices' that are systematically deployed to solve interactional problems. The 'occasional device' used in Example 3 was a claim to not hear the call taker, providing a place where the caller's name would usually fit, avoiding the interactional problem of a noticeable absence because a response was provided whilst missing the opportunity to provide their name. Sacks argued that talk can be the object for analysis despite previous

assertions that talk is too disorderly to study (Chomsky, 1965). Talk is seen as owning its 'own social process, governed by its own regularities' and order is apparent wherever we choose to direct our gaze at human activities (Hutchby and Wooffitt, 2008, p.19). The basic features of conversational organisation underpin all forms of social interaction.

3.4 The Basic Features of Conversational Organisation

Conversation analysis seeks to uncover the sources of orderliness by examining the details of talk. Turn-taking and action formation are the two concepts that underlie the study of talk in interaction and they will be explored in this section. First, turn-taking involves, 'one party talks at a time, though speakers change' and turn size varies and 'transitions are finely co-ordinated' and 'techniques are used for allocating turns' (Sacks *et al.* 1974, p. 699). When a speaker completes a turn this 'constitutes an initial transition-relevance place (TRP)' which involves the transfer of speakership in a coordinated way (Sack *et al.* 1974, p.703). The turn-constructional component involves the way 'a speaker may set out to construct' a unit of talk through 'sentential, clausal, phrasal, and lexical constructions' (Sacks *et al.* 1974, p.702). The turn-allocation component involves 'current speaker's selecting next speaker' making the next speaker 'obliged to take the next turn; no others have the right' to speak at this time (Sacks *et al.* 1974, p. 704). If the current speaker does not select the next speaker then the current speaker may continue speaking past the TRP unless someone self-selects (Sacks *et al.* 1974). Overall, it is claimed that 'turns-at-talk follow one another with a minimised gap and overlap between them' (Schegloff, 2007, p.1).

Adjacency pairs are the foundation of turn-taking and they are composed of two turns, adjacent to one another, completed by two speakers (Schegloff & Sacks, 1973). Adjacency pairs have a perceived relatedness that is achieved through the production of a sequence:

> composed of an utterance that is a first pair part produced by one speaker directly followed by the production by a different speaker of an utterance which is (a) a second pair part, and (b) is from the same pair type as the first utterance in the sequence (Schegloff & Sacks, 1973, p.296).

The first-pair part makes the second-pair part conditionally relevant because it is contingent upon the production of the first. Examples of some adjacency pair formats include 'question-answer, greeting-greeting, offer-acceptance/refusal' (Schegloff & Sacks, 1973, p.296).

'Action formation' is the second concept underpinning the study of talk in interaction, referring to a stretch of talk that has a recognisable action, demonstrated by the way that co-participants respond to it (Schegloff, 2007, p.7). Actions are achieved through turn constructional units (TCU) which can include more than one action at a time; therefore, it is important to understand how these turns are formulated. Examples of actions include: 'answering, disagreeing, offering, contesting, requesting, teasing, finessing, complying, performing, noticing, promising, announcing, telling, complaining, agreeing and so forth' (Schegloff, 2007, p.7). Turns that follow one another are 'seen to be grouped in batches or clumps' and they form a 'shape' not identical to each other (Schegloff, 2007, p.2). When examining these 'batches or clumps', it is better to focus on what action these turns are attempting to achieve and how they are organised rather than the topic of conversation (Schegloff, 2007) and this is referred to as *sequence organisation.* Sequence organisation is composed of distinctive patterns of turn-taking (Schegloff, 2007) and these 'sequences are the vehicle for getting some activity accomplished' (Schegloff, 2007, p.2). Example 4 was taken from a recorded telephone conversation showing the actions of a summons, greeting, and request for information being achieved through the adjacency pair format, demonstrating the first paired part (F) and the second paired part (S).

```
Example 4 (Schegloff, 2007: 22)
F→   1              Telephone rings
S→   2    Marsha  Hello:?
F→   3    Tony    Hi: Marsha?
S→   4    Marsha  Ye:ah.
F→   5    Tony    How are you.
S→   6    Marsha  Fi::ne.
```

The initiation of the sequence above started at line 1 with the phone ringing, which was a summons, and functioned as a first-pair part, answered by Marsha's 'Hello:?' (line 2), which functioned as a second-pair part. This also functioned as a first-pair part of a greetings adjacency pair that Tony responded to, 'Hi:' (line 3) whilst also attempting to seek the recipient's identity, 'Marsha?' (line 3) which was confirmed 'Ye:ah' (line 4). Tony initiated the next sequence 'How are you' (line 5) and Marsha responded 'Fi::ne' (line 6). If questions were not answered in these sequences then this would result in a 'noticeable absence', confirming the relevance rules apparent in turn-taking organisation (Schegloff, 2007). This

small stretch of talk achieved the actions of summons, greetings, confirmation of identity and requesting information, showing how the basic features of conversational organisation were illuminated by conversation analysis. These features form the basis of all conversations regardless of the context in which they occur. Although conversation analysis initially focused on naturally occurring conversation researchers later went on to observe the talk that occurred within institutional contexts.

3.5 Institutional Talk

The term 'institution' refers to mechanisms that govern the behaviour of a set of individuals. Despite previous research in conversation analysis taking place in institutional settings (Sacks, 1995; Schegloff, 1968), there was no focus on the systematic nature of the institutional character of the talk (Hutchby & Woofitt, 2008). The publication of *Order in Court* by Max Atkinson and Paul Drew (1979) brought about a new approach to conversation analysis, one that focused on the impact that the institutional context had on the interaction. Conversation analysis sees context as 'a project and a product of the participants' actions' fundamentally 'built, invoked and managed' through interaction where participants achieve institutional objectives in and through their talk (Heritage, 1998, p.4). Early studies took place within courtrooms (Atkinson & Drew, 1979), classrooms (McHoul, 1978) and news interviews (Clayman, 1988; Clayman & Heritage, 2002), demonstrating differences between naturally occurring conversation and institutional talk where participants' opportunities for action were altered (Heritage, 2005). When claims are made about a context holding an 'institutional character' then the 'associated roles, tasks and identities must be shown in the details of the participant's conduct' (Heritage, 1998, p.4). In the context of a court room setting, spectators demonstrate their orientation to associated roles, tasks, and identities by remaining silent, highlighting their altered opportunities for action (Heritage, 2005). Naturally occurring conversation involves a freedom of expression whereas in the context of court, if spectators were to speak then they would be held in contempt. The very silence of the participants is just one institutionally distinct aspect of the court process.

Institutional settings can vary in terms of being formal and informal; however, all include procedures and restrictions that are demonstrated in the interaction. Informal institutional interactions include conversational forms like naturally occurring conversation, but certain items may carry an institutionally distinct meaning. Example 5 involved a health visitor (HV)

visiting the home of new parents and commenting on the sucking behaviour of the baby, resulting in the mother and father responding differently.

```
Example 5 (Heritage & Self, 1992: 367)
    1   HV      He's enjoying that [isn't he.
    2   Father                     [°Yes he certainly is=°
    3   Mother =He's not hungry 'cus (h)he's ju(h)st (h)has
    4          'iz bo:ttle .hhh
```

The father agreed with the health visitor, while the mother responded defensively implying that the baby was not hungry (Drew & Heritage, 1992). Procedural relevance refers to the way an utterance is interpreted by participants and depends on linguistic form, context, and the identity of the speaker. The utterance of the health visitor was interpreted by the mother as an attempt to achieve the action of advising, which is why she responded defensively. The mother's response demonstrated her understanding of the associated role and identity of the advisory nature of the health visitor, making the institutional expectations of the interaction procedurally relevant. Although this interaction took place in a more informal setting, the way that the mother responded demonstrated the institutional character of the talk.

A more extended illustration of institutional talk can be found in Garcia's study of mediation sessions in a study that closely resembles the current project. Mediation involves two parties coming together to resolve conflict in the presence of a third party. Garcia video-recorded nine mediation sessions and used conversation analysis to observe how goals were accomplished through interactional organisation and which tactics reduced antagonism between the participants and moved the conversation towards resolution (Garcia, 1991). Mediation was defined as a form of institutional talk which involved conversational turns being pre-allocated rather than happening in a naturally occurring way. The mediator opened the meeting by explaining the process and elicited story telling from the participants in an orderly way. When participants told their story, they demonstrated their orientation to the mediator's control over the process. The discussion was organised by the mediator asking questions and deciding topics, and participation was pre-determined. The turn-taking system prevented disputing by making accusations and denials non-adjacent pairs and being directed at the mediator rather than co-participants. Example 6 was provided by Garcia (1991), showing an accusation being made about the co-participant (Jane) vandalising a car.

```
Example 6 (Garcia, 1991: 828)
    1    Complainant  My car was vandali:zed, hh (.3) early
    2                 in the mo::rning, (.1) I came ba:ck I
    3                 was away (.2) for the night (.) I came
    4                 back, and there was paint, (1.5)
    5                 garbag:e. (.8) Powdered milk. (.4)
    6                 I've got pictures of that=if- (.3)
    7                 you'd like to see it. (.4)
    8    Mediator     °um=hmh.° (.2)
    9    Complainant  °What that looked like. ° (2.1)
   10                 a:::nd: the only conceivable person:
   11                 (.) that=it= could =do:: (.4) that
   12                 would be responsible whether she
   13                 did=it=or not herse:lf?' (.1) would be
   14                 Jane!,…
```

When the complainant referred to Jane being the person responsible for vandalising the car, Jane shook her head in disagreement but directed her gaze at the mediator, just as the complainant did. The mediator and complainant did not acknowledge that Jane had shaken her head. Accusations in mediation were not first-pair parts, they were responses to questions asked by the mediator, making an oppositional response not relevant in the next turn space. Jane 'did not reply to this accusation until half an hour later', removing 'one source of dispute escalation' and making arguing irrelevant (Garcia, 1991, p. 829). When exchanges of speech were directed at the mediator, the participants formulated the accusation in the least offensive way possible. In the extract above, the complainant did not accuse Jane directly; instead, using Jane's name demonstrates that the turn was directed at the mediator which reduced the intensity of the discussion and minimised the likelihood of an argument. Garcia (1991) explored the conversational tools used to achieve institutional objectives, highlighting finer details of the interaction in ways not done before.

While, mediation is also used in restorative justice, there are some particularities attaching to the latter. General mediation is 'a consensual process in which a neutral third party helps others to negotiate a solution to a problem' (Fiodjoe, 2004, p.58). Like restorative justice, alternative

dispute resolution searches for a consensual approach to solving a problem. The difference is that mediation involves two parties holding similar roles in a conflict, aiming to resolve a dispute, whereas restorative justice involves the clearly defined roles of victim and offender. Despite the partially different characteristics of restorative justice and mediation, applying conversation analysis to the restorative justice meeting will also provide insight into the intricate details of the process because the restorative justice meeting is arguably also a form of institutional talk.

3.6 The Restorative Justice Meeting as a Form of Institutional Talk

This chapter has so far explored the origins and basic features of conversation analysis, highlighting how this method went from observing naturally occurring conversation to interactions that took place within institutional contexts. The current section will bring together conversation analysis and restorative justice by identifying how the latter is a form of institutional talk.

Preparatory work is carried out before the restorative justice meeting takes place. The facilitator meets the victim and offender separately to discuss what the meeting will entail whilst assessing their readiness to engage in the process (Wallis & Tudor, 2007). Some aspects of what will be said in the meeting will be discussed beforehand. Thus, the restorative justice meeting is an orchestrated event that follows a set of ordered phases which are dictated by a script. The script varies across different restorative justice schemes. At least one facilitator is present to help the victim and offender communicate, and additional participants may attend to support the victim and offender. There are occasions where the victim does not attend and someone attends in their place, usually in the form of a proxy victim. A proxy victim is someone who has experienced the same crime that the meeting is addressing, placing them in a knowledgeable position.

The victim-offender mediation process commonly used includes the following phases (Leibmann (2007, p.74):

1. Opening statement, introduction, and ground rules.
2. Uninterrupted time – each person tells his or her story.
3. Exchange – opportunity for questions.
4. Building agreement, if appropriate.
5. Writing agreement, if appropriate.

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6. Closing session, arranging follow-up.
7. Mediators debrief.

This structured format gives the victim and offender the opportunity to learn from each other by listening to what is said. A script is used as a guide by the facilitator and is adjusted based on the context and the individuals who are present. The script used in the meetings recorded for the present study will be included in Chapter Four and explored in more detail, where an overview of each meeting will also be provided. The tools of conversation analysis are used to identify features of an institutional interaction and these will be explored in the next section as they relate to the restorative justice context.

3.7 Conversation Analytic Tools

Identifying the distinct nature of an institutional interaction requires a comparison to be made with naturally occurring talk. Institutional settings vary, so this distinction may differ depending on the context to which this method is applied. Talk that occurs within institutional settings is more constrained, demonstrating limited participation rights. The conversational tools used to make a comparison between naturally occurring and institutional talk are the 'six dimensions of difference' (Drew & Heritage, 1992) which include, turn-taking, turn-design, lexical and word choice, epistemological and other forms of asymmetry, sequence organisation and overall structural organisation. These tools will be explored, identifying their relevance to the restorative justice meeting, and highlighting how they relate to the current project.

3.7.1 Turn-taking

Turn-taking is present in all forms of conversational interaction (Sacks *et al.*, 1974) and the turn-by-turn routine occurs when a turn constructional unit (TCU) has ended, and the turn relevance place (TRP) becomes available (ten Have, 2007). Turn-allocation techniques may involve a current speaker selecting a next speaker, 'parties may self-select in starting to talk' or a current speaker may continue past a transition relevance place (Sacks *et al.,* 1974, p.701). Example 7 shows a conversation between friends, demonstrating turn-taking and turn-allocation.

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Example 7: (Sacks et al. 1974: 703)
     1    Sy      See Death 'v a Salesman las' night?
     2    Jim     No.
     3            ((pause))
     4    Sy      Never see(h)n it?
     5    Jim     No.
     6    Sy      Ever seen it?
     7    Jay     Yes
```

Example 7 shows that when each turn constructional unit ended, the next turn was taken in the turn relevance place, forming a turn-by-turn routine. The turn-allocation techniques involved Sy selecting Jim and Jay as 'next speakers' and Sy's turns were 'allocated by self-selection' (Sack et al., 1974, p.703). In institutional settings, specialised turn-taking procedures and pre-allocated roles are apparent and the order of speaking is pre-determined before the event takes place.

Turn-taking in an institutional context is specialised, altering 'the participant's opportunities for action' and adjusting 'the interpretation of almost every aspect of the activities that result' (Heritage, 2005, p.115). These specialised turn-taking procedures create and help to achieve certain objectives based on the context they are in (Heritage, 2005). Specialised turn-taking procedures involve turn-allocation techniques. The basic turn-allocation techniques previously described by Sacks et al. (1974, p.703) involve a 'current speaker selecting the next speaker, the next speaker self-selecting, or current speaker continuing to speak' past a transition relevance place (TRP). Most restorative justice meetings, including those studies here, have a specialised turn-taking procedure involving a pre-allocated speech exchange system that participants adhere to. Facilitators are pre-allocated to ask questions and victims and offenders are pre-allocated to answer them.

3.7.2 Turn Design

The way turns at talk are constructed is referred to as *turn-design* and two distinctive elements need to be considered,

Firstly, the action that the talk is designed to perform; secondly, the details of the verbal construction through which the turn's activity is accomplished (Drew & Heritage, 1992, p.32).

Turn-design includes word choice, phrases, and the knowledge a person holds, impacting the next turn and the way the recipient interprets the meaning of what is being said. Questions are central to the restorative justice process and the way that they are designed places constraints on the answers given, shaping the interaction. Questions are a very powerful tool and 'as long as one is in the position of doing the questions, then in part they have control of the conversation' (Sacks, 1995, p.54). In this restorative justice scheme, facilitators ask the questions set out by the script, placing them in a position of power to achieve the institutional objective.

3.7.3 Lexical or Word Choice

Lexical choice is part of turn design and involves analysing the words used in a turn constructional unit to see what meaning they convey and how this is interpreted by recipients. Speakers in an institutional interaction use particular words that emphasise the institutional character of talk. For example, choosing to use the word 'we' instead of 'I' reflects the institution that the person represents (Sacks, 1992).

3.7.4 Epistemological and other Forms of Asymmetry

There are apparent knowledge discrepancies between the institutional representative and the layperson. The level of participation in an interaction can demonstrate who holds the rights to articulate knowledge based on their position and power over the interaction. There are clear knowledge discrepancies between the facilitator, victim, and offender in some restorative justice meetings. The facilitator holds the position of practitioner, possessing more knowledge of the process based on previous experience, whereas the victim and offender have limited or no experience of the process. Turns at talk or questions asked can demonstrate how much knowledge a person holds. To understand the role of epistemics, a distinction needs to be made between epistemic status and epistemic stance. Each participant holds a different position on what is termed the epistemic gradient, holding a K+ (more knowledgeable) or a K- (less knowledgeable) position. The positioning on this gradient is referred to as the epistemic status which relates to the territories of knowledge a person holds in relation to others in a particular interaction (Heritage, 2012) which is jointly recognised by those involved (Heritage, 2013). In some restorative justice meetings, facilitators are pre-

allocated to ask questions and respond to the answers given. Knowledge claims are 'assert[ed], contest[ed] and defend[ed] in and through turns-at-talk and sequences of interaction' (Heritage, 2013, p.370). After hearing a response from the recipient, the facilitators' pre-allocated position enables them to emphasise or challenge what has been said, demonstrating their epistemic status through talk.

Epistemic stance is concerned with the moment-to-moment expression of knowledge through turns at talk. The way in which a question is constructed reflects the K+ or K- gradient position the asker holds. If a person asks, 'are you married?' this demonstrates a request for information, the questioner may already know if the listener is married but is choosing to take an unknowing stance (Heritage, 2012, p.6). This 'unknowing' epistemic stance 'invites elaboration and projects the possibility of sequence expansion' (Heritage, 2012, p.6). If a person asks, 'you are married, aren't you?' (Heritage, 2012, p.6) this indicates that the asker holds provisional knowledge that the recipient is married and seeks to confirm this (Heritage, 2013). This 'knowing' epistemic stance 'invites confirmation', promoting 'sequence closure' (Heritage, 2013, p.378), demonstrating the difference between asking a question (unknowing) and making an assertion (knowing). Labov and Fanshel (1977) provide an example, later used by Heritage (2013), to demonstrate an interaction between a doctor and patient, showing how information was obtained using different formatted questions.

```
Example 8: (Heritage, 2013: 555)
    1   Doctor   Are you married?
    2            (.)
    3   Patient  No.
    4            (.)
    5   Doctor   You're divorced (°currently,°)
    6   Patient                             Mm hm,
```

The doctor asked an unknowing formatted question (line 1), requesting information held by the patient. After the patient answered the question (line 3), the Doctor then produced a knowing formatted question (line 5) which assumed the patient was divorced and invited confirmation. Although the patient held the rights to the information, the doctor's epistemic status placed him in a position to produce these questions. A person can hold a higher

epistemic status and deploy a lower 'epistemic stance to appear less knowledgeable than they really are' (Heritage, 2012, p.7).

3.7.5 Sequence Organisation

Turns at talk are connected to each other and Stivers (2013, p.191) explained this eloquently:

> The social actions we perform in social interaction occur sequentially, one following another. Yet their relationship is not like that of cars in a street lane where a red Ford Focus might be followed by a white Toyota Prius or the other way around. In interaction, a request, an invitation, a denial, and an acceptance cannot be ordered any which way.

The main source of analysis for sequence organisation is the adjacency pair format, consisting of two-parts, forming the core sequence. Pre-sequences occur before the core sequence and they involve preparatory work being carried out to assess whether certain conditions for the next action exist (ten Have, 2007). Post-expansion occurs after the core sequence and involves expanding on what has been said by registering or acknowledging it, prompting a move to the next action. Post-expansions can include sequence-closing thirds that provide an assessment of what has been said whilst closing the sequence. The following example involves a visitor at a dinner party asking a couple a question (Schegloff, 2007). The adjacency pair format is demonstrated in Example 9, the first-pair part (F), the second-pair part (S), followed by the sequence-closing third (SCT).

```
Example 9: (Schegloff, 2007: 125)
  F   1   Rub     Sa howaryou people?
      2           (1.0)
  S   3   Kay     We're fine,
  S   4   Dav     (Oh)/(No-) No complaints.
 SCT  5   Rub     Good.
```

Example 9 shows a question being asked which formed the first-pair part (line 1), resulting in each member of the couple responding (lines 8-9) which formed the second-pair part and then a sequence-closing third was provided (line 10). The word 'Good' provided an assessment of what had been said and closed the sequence in preparation for a new turn (Schegloff, 2007). Speakers 'address themselves to the prior talk', demonstrating an understanding of what has been said (Schegloff, 1992, p.1299). Example 10 demonstrates a repair after next turn which follows a misunderstanding from the recipient.

```
Example 10: (Schegloff, 1992: 1302)
      1     Marcia  …Becuz the to:p was ripped off'v iz car
      2             iz tihsay someb'dy helped th'mselfs.
      3     Tony    Stolen.
      4             (0.4)
      5     Marcia  Stolen. Right out in front of my house.
```

Example 10 shows Marcia telling Tony about the top of a car being 'ripped off' (line 1),
Tony then responded by clarifying what she meant (line 3) before Marcia initiated a repair
after next turn, confirming she did mean 'Stolen' (line 5). Examples 9 and 10 have
demonstrated the third position that follows the adjacency pair format. There are occasions
where cycles of the same sequence occur in the form of questions and answers,
demonstrating endless repetition. Example 11 is taken from a trial where an attorney (A) is
cross examining a witness (W) in a case, demonstrating the repetitive question (Q) and
answer (A) sequence.

```
Example 11 (Drew, 1992: 472)
Q     1     A     Uh no, Sergeant ((name)), was the print
      2           put on these before the shotgun shell was
      3           fired or after?
A     4     W     Before it
Q     5     A     Before?
A     6     W     Yes sir
Q     7     A     Was it a revolver or a shot gun?
A     8     W     Shotgun
Q     9     A     And you lifted it off of the brass
      10          casting?
A     11    W     That is correct
```

Question and answer sequences occur repeatedly in different forms of interaction but are
more commonly practised in institutional contexts in order to achieve specific objectives. In
Example 11, the objective of the attorney involved strengthening his own case by attacking

the credibility of the witness and undermining the evidence given. Sequence organisation is the 'engine room of interaction' where 'activities and tasks are managed' and 'identities and institutional roles are established, maintained and manipulated' (Heritage, 2005, p.23). In some restorative justice meetings, the facilitator establishes an institutional role during the opening by explaining the rules and invoking the procedure and phases to come. The phases in some restorative justice schemes involve repetitive sequences of questions and answers that attempted to achieve the objectives - in this case restoration.

Question and answer sequences include conversational tools that demonstrate whether the answers given are adequate or not, promoting sequence expansion and sequence closure. These conversational tools include continuers and acknowledgement tokens, and both play a part in managing the interaction. Continuers provide 'an understanding that an extended unit of talk is underway by another and that it is not yet or may not yet be complete' (Schegloff, 1982, p.81). Someone who provides a continuer 'takes the stance that the speaker of that extended unit should continue talking' (Schegloff, 1982, p.81), promoting sequence expansion and serving as an assessment of what is being said. Even if a continuer is neutral, it still demonstrates alignment with the process because it tells the person to continue talking. Continuers are less likely to take the form of disagreement or disaffiliation because their role in prompting further talk may be prevented if this were to happen. Example 12 is taken from an interview, focusing on how the interviewer (IR) responded to what was being said by the interviewee (IE).

```
Example 12: (Richards, 2011, p.13)
    1   IE      Just occa:sionally (.) knowing that I'd
    2           understood, and not wanting to be bothered
    3           to reflect that understand=
    4   IR      =mm=
    5   IE      =because I had this VE:ry strong (.)
    6           empathy=
    7   IR      =mm=
    8   IE      =with whatever was being discussed,=
    9   IR      =mm
    10          (0.8)
    11  IE      And just want to PITCH in and say why don't
    12          you
```

```
13   IR      Yeah
14           (0.3)
15   IR      Yeah
16           (0.4)
17   IR      Yeah
18           (0.5)
19   IR      Which is: (.) my normal tutorial mode
```

The interviewer (IR) responded to the talk of the interviewee (IE), using neutral continuers 'mm' (lines 4, 8 and 9) which prompted further talk. The interviewer (IR) then provided agreement continuers 'yeah' (lines 13, 15 and 17) during a period of silence, resulting in the interviewee (IE) continuing to talk (line 19). Example 12 shows the important part that continuers can play in developing the talk.

Continuers extend the interaction whereas acknowledgment tokens are used to promote sequence closure. Acknowledgement tokens are minimal verbalisations that help to manage an interaction in an economic way (Schegloff, 1982). Acknowledgement tokens such as 'yeah' and 'so' are found to occur when a topic shift is about to happen (Jefferson, 1983). A continuer is a type of acknowledgment token, but they are not the same. Continuers prompt further talk whereas acknowledgement tokens change the direction of the conversation in the form of a topic shift by usually demonstrating an acknowledgement, agreement or understanding of a previous turn before moving on to a new sequence, and both play a crucial part in the co-construction of talk. Example 13 involved a conversation between two friends, demonstrating the use of an acknowledgement token.

```
Example 13: (Jefferson, 1993: 4)
    1    J      It en:ded with a great big ↓bang=
    2           =ehh he⌈h hn I jum⌉ped=
    3    V            ⌊°Oh-huh::°⌋
    4    J      =out of the e seat I jumped
    5           (.)
    6           e ⌈shot about three feet in⌉ the air I
    7    V        ⌊°Oh : : : : : : : : :°⌋
    8    J      think=
    9    J      =↓he⌈h heh⌉        ⌈hhhh
```

```
10   V              └Y e s┘ ::hh └Eh::m, we didn't go to
11              have our hair done by the wa:y,=
12   J          =·h No well I gathered not
```

J was speaking and V demonstrated active listening in response. V then provided an acknowledgement token, 'yes' before initiating a new turn 'we didn't go to have our hair done by the wa:y' (lines 10-11) which changed the topic of conversation.

3.7.6 Overall Structural Organisation

The overall structural organisation of conversation includes opening and closing sections but naturally occurring talk has no other pre-specified phases in between. Institutional interactions are structurally organised and 'built from component phases or activities that characteristically emerge in a particular order' (Heritage, 2005, p.120). These phases attempt to achieve various actions based on institutional objectives. For example, a criminal trial follows a particular order that includes, opening statements from each side, prosecution evidence and witnesses, defence evidence and witnesses, closing arguments, the judge's instructions to the jury and the jury's deliberation and verdict. The pre-determined phases of a criminal trial all work towards achieving the institutional objective of securing a conviction or acquittal. Similarly, the overall structural organisation of some restorative justice meetings typically include phases connected directly with the script such as, opening the meeting, the offender account, the victim account, the reparation phase and closing the meeting.

3.8 Evaluation

Promising and productive as conversation analysis has shown itself to be, it has not been without its critics. This section will consider reported limitations of conversation analysis as a research method.

Thus, Cicourel (1981) claimed that conversation analysis ignores the institutional context in which the conversation takes place. However, this criticism arguably misrepresents the method. Conversation analysis initially focused on naturally occurring conversation, but – as we have seen - later developments went on to explore talk that occurred within institutional settings (Atkinson & Drew, 1979; Clayman, 1988; Clayman & Heritage, 2002; McHoul, 1978). These studies used the tools of conversation analysis that were applied to naturally occurring conversation, applied them to institutional talk and identified ways they were used

and modified to achieve institutional objectives. Contextual categories such as the institutional identity of the speaker were only considered if participants demonstrated their relevance through expressions of inequality and oppression in talk. Schegloff (1999) identified turn-taking organisation as a resource in helping to analyse inequality and oppression in interaction by examining the interests and practices driving the distribution of turns. Institutional talk can be distinguished and set apart from naturally occurring conversation by the acknowledgement of a speech exchange system involving the pre-allocation of turns, categorising the participants as practitioners and lay people. Institutional interactions are task-oriented and have very clear aims and outcomes, unlike naturally occurring conversation that can go anywhere. If conversation analysis did exclude contextual categories, then institutional interactions would not have been examined in this way.

Secondly, it has been noted that contextual categories of participants (age, gender, social class) are excluded from the analysis and perceived as missing data (ten Have, 1990). However, claims about missing data do not consider that contextual categories are included only when participants demonstrate their relevance to them in the talk (ten Have, 1990). Kitzinger (2000) found that gender and sexuality can be produced through talk and their relevance is demonstrated by how this affects what participants do next. This shows that contextual categories are significant when participants demonstrate their relevance in the talk they produce, increasing the validity of findings. Conversation analysis contributes to an understanding of how things figure as a lived reality, which is one of its defining features.

Finally, conversation analysis has been queried for its reliance on the analyst's interpretation of the data (ten Have, 1990). However, data interpretation is based on the analyst alone because interviewing participants may result in them finding it difficult to recount the moment-by-moment unfolding of the interaction. They may be prone to produce a partial account and put their actions across in the most favourable way (ten Have, 1990), which is why conversation analysis has advantages over interviewing. Additionally, conversation analysis is an observational method where data is shared with readers, thus analysts' interpretations can be readily checked by readers who have access to the same transcripts as the analyst.

Conversation analysis is not concerned with uncovering the meaning beyond what is being said, instead, the focus is on the meaning that is produced in and through the interaction. Conversation analysis offers a particular way of looking at an interaction and is considered a

'double-edged' resource, creating 'analytic distance' because it relies on the perspective of the researcher, but it brings 'news' about the accomplishment of conversation not seen in any other research method (Lynch, 1985, p.196). The 'news' is offered in such a detailed and constructive way that would not be available without the use of recordings (Lynch, 1985). This detail is positively welcomed, highlighting the structures and activities accomplished through talk.

3.9 Research Questions

The previous chapters have explained what restorative justice is and reviewed existing research in the field. This chapter has provided an explanation of what conversation analysis is as an approach to research, focusing specifically on institutional talk and how the restorative justice meeting falls into this category. This section will now look at how conversation analysis will be used as a research method to illuminate the restorative justice interaction in ways that have not been employed before. It will highlight a set of objectives that will inform the analysis, bringing together everything said so far to make sense of how this project will move forward.

Given that a significant link has been shown to exist between the character of some restorative justice meetings and subsequent outcomes (Hayes & Daly, 2003; Rossner, 2013; Shapland *et al.*, 2008), further research is needed that focuses on the finer details of the interaction. Conversation analysis is the most promising sociological approach to present a close examination of the restorative justice process. Conversation analysis starts from the approach of 'unmotivated looking' (Psathas, 1995, p.45), which implies 'that the investigator is "open" to discovering phenomena rather than searching for instances of already identified and described phenomena' (Psathas, 1990, 24-5). The approach of 'unmotivated looking' will be applied to this research, but a set of objectives will be outlined and will be the lens through which I examine the data, selecting segments and identifying phenomena that contribute to the achievement of institutional objectives. The way that data will be approached will be explored in more detail in Chapter Four.

Restoration is an objective identified in restorative justice literature (Braithwaite, 1996; Doolin, 2007; Zehr, 2014). For offenders, restoration involves establishing responsibility, understanding impact, and putting things right (Zehr, 2014). For victims, restoration involves empowering them (Braithwaite, 1996; Doolin, 2007; Zehr, 2014) to tell their story (Zehr,

2014) and have their story heard (Braithwaite, 1996). In addition, an important aspect of restoration is the core sequence of apology-forgiveness (Retzinger & Scheff, 1996) which is an emerging standard set for restorative justice (Braithwaite, 1996). The current project proposes to observe the restorative justice process as a form of institutional talk focusing on how specialised turn-taking procedures, turn-design, lexical choice, epistemics and other forms of asymmetry, sequence organisation and overall structural organisation contribute to achieving the objectives of restoration. When objectives of restoration are achieved this will be referred to as 'restorative talk'. How these interests connect with the overall aims and objectives of this thesis will be outlined later in this section following an exploration of the gaps identified in current research.

A small group of studies (Asmussen, 2015; Jacobsson *et al.*, 2012; Rossner, 2011; 2013) claimed to be drawing on conversation analysis to observe the interactions within different restorative justice schemes; however, their use of this method was partial, inconsistent, or misunderstood what this approach entailed. Rossner (2011; 2013) used what she claimed to be a modified version of conversation analysis to examine turn-taking, conversational rules (Sacks *et al.*, 1974) and non-verbal cues. Conversation analysis was used as a secondary research method to examine the interaction ritual which was the predominant focus of her research project. Findings provided some conversation analysis conventions, awarding recognition to turn-taking arrangements in talk. However, what followed the transcriptions was a description of what happened rather than a systematic analysis of talk. A systematic analysis of talk attempts to identify 'how participants understand and respond to one another' and how social activities are accomplished (Hutchby & Wooffitt, 2008, p.12). Jacobsson *et al.* (2012) claimed to use conversation analysis to study victim role-taking, but the larger focus of their analysis was on asymmetries in dialogue (Linell, 1998). Transcripts were included but the emphasis of the analysis was on how victims positioned themselves in relation to offenders rather than on how they understood and responded to each other. Asmussen (2015, p.29) claimed to use 'Goffman's role theory, conversation analysis, positioning theory and discursive psychology' to identify various identities that the victim and offender performed in mediation sessions, asserting that these perspectives partly overlap. In Asmussen's research, it is hard to identify the part conversation analysis played in the findings. Transcripts were included but transcription symbols were not, and the focus remained on the position that victims and offenders took. Conversation analysis is a specialist method, demonstrating intricate details of talk which was not present in the previous studies.

My research offers the single most extensive and sustained analysis of restorative justice meetings using conversation analysis.

This restorative justice scheme is a form of institutional talk because it has a pre-planned agenda that is governed by a facilitator who uses a generic script within the meeting. Conversation analysis has been used to analyse mediation sessions as a form of institutional talk (Garcia, 1991) and findings revealed that specialised turn-taking procedures and pre-allocated roles reduced antagonism and contributed to achieving the institutional objective of conflict resolution. Garcia (1991) illuminated the interaction of mediation sessions in ways that had not been done before and I intend to apply the same approach, identifying the institutionally distinct nature of the restorative justice process. Conversation analytic tools used in institutional settings are the same as those that are used in naturally occurring conversation. However, the difference lies in the constraints that these tools place on the participants in institutional settings through the use of pre-allocated roles. The restorative justice meeting occupies an institutional frame which sits inside the boundaries of clear openings and closings, limiting participation rights to achieve institutional objectives. My project is interested in identifying the part that institutional talk plays in achieving restorative talk.

The restorative justice meeting is an orchestrated event and the way it is ordered is of considerable importance. The order is set out before the meeting starts, in the form of a script which is used by the facilitator. The script sets out phases where the victim and offender are questioned and then a discussion around reparation takes place. Zappavigna and Martin (2018) used discourse analysis, identifying a theme across observed restorative justice conferences. Findings revealed specific genres and micro-genres that occurred in sequence, making up the procedural element of the process and achieving institutional objectives. Discourse analysis is concerned with the 'broader level' of language practices and the way accounts and formulations display practical action (Wooffitt, 2005, p.7). In contrast, conversation analysis is concerned with how participants manage interaction, highlighting 'patterned sequential structures through which activities are accomplished' at 'an extremely fine level of detail' (Wooffitt, 2005, p.75), offering a more 'descriptive precision' than discourse analysis (Wooffitt, 2005, p.80). The research that I am proposing intends to look at the finer details of the interaction perhaps missed by Zappavigna and Martin (2018).

Power dynamics have been identified in previous research, highlighting limited participation rights which showed offenders talked the least in the interaction in comparison to facilitators and victims (Gerkin, 2009; Jacobsson *et al.*, 2012). Rossner (2013) examined how much offenders contributed to the interaction and whether they were dominated in the process. When balance was less apparent in conferences, this had an impact on ritual outcomes and levels of reoffending after involvement. The ideal of restorative justice is that participants can speak freely but Cook (2006, p.121) found that offenders were 'coaxed' into explanations of accountability and their own explanations were 'contested, rebuffed or dismissed' showing apparent domination in the process. My research will use conversation analysis as a lens to look at types and levels of participation experienced by victims and offenders in the meetings, confirming or denying the picture of participation that has emerged from previous studies.

Questions are an important part of the restorative justice process and yet there has been a limited focus on this in prior research. Gerkin (2009) found that questions asked by mediators played a significant part in victims dominating the agreement phase. Questioning will be analysed as part of this research project, looking at how turns are constructed and designed to perform a particular action (Drew & Heritage, 1992) and how the person asking the question demonstrates their power to construct knowledge. Institutional interactions characteristically involve asymmetrical (imbalanced) relationships between participants. Knowledge asymmetries are not about one party not knowing something or being at a disadvantage to another, instead it is a consequence of how a speaker orientates to such asymmetry in the design of their talk (Drew, 1991). Asymmetry will be examined as part of this research project, identifying the part that this plays in achieving institutional objectives.

The restorative justice meetings follow a set of ordered phases and this project will examine each phase individually. When examining each phase, the questions that will be asked that guide this analysis include:

- What institutional objective is being achieved in each phase of the meeting?
- What is formal about the talk itself?
- How are the questions asked?
- How are the answers responded to and managed?
- What happens when institutional order is not adhered to?

In addition to the question above, this project will examine the core sequence of apology and forgiveness, to promote an understanding of why this sequence is sometimes not achieved (Hayes, 2006). This research enables a close look at the moment-to-moment unfolding of the restorative justice meeting, providing further understanding of the process which could be beneficial to restorative justice practice in the future as well as making a positive contribution to existing knowledge. The research moves away from the idea that the restorative justice process is an emotionally transforming experience and focuses purely on the talk that takes place in the interaction. Rossner and Jasmine (2018) highlighted conferences as being successful because participants worked together to develop a shared narrative and understanding of the offence. These observations highlighted a need for further research in this area and the talk itself is key to understanding the interaction.

3.10 Conclusion

The method of conversation analysis will be used to identify intricate details of the restorative justice meeting, using conversational tools (turn-taking, turn design, lexical choice, epistemics, sequence organisation and overall structural organisation) to identify distinct features of the interaction. Conversation analysis will highlight the impact institutional talk has on the accomplishment of objectives and may reveal processes that are contrary to the ideals of restorative justice meetings, or to the descriptions given by other researchers who have not used conversation analysis. The next chapter will focus specifically on the methods used to gather, collect, and examine the data for this research, acknowledging any limitations with the process.

Chapter 4

Methods

4.1 Introduction

The purpose of this chapter is to describe the methods used to conduct this research. It will start by looking at the ways in which data were collected, how participants became involved, how ethical approval was obtained, how informed consent was gained, and confidentiality was ensured. Five restorative justice meetings were recorded for research purposes and an overview of each of these will be provided, including the participants that attended. The focus of the study was on restorative justice meetings as a form of institutional talk which became the lens through which data was examined, and segments of the transcripts were selected. The chapter will explain how data were prepared and examined, concluding with an evaluation of the methods used.

4.2 Collecting Data

The data analysed in this thesis were collected as part of a project called 'Interaction in Restorative Justice Conferences' led by Chris Birkbeck and Greg Smith, where I was a third participant. The project received ethical approval from the University of Salford on 27/06/2016. Subsequently, Chris Birkbeck and Greg Smith obtained funding from the British Academy (grant number: SG160352) to study 'The Dramatic Dimensions of Restorative Justice.' They aimed to record restorative justice meetings to study identity work and shifts in moral footing, using discourse and text analysis but not conversation analysis. These recordings and associated transcripts were made available to me for conversation analysis, ensuring appropriate security measures for data transport and storage.

During the 18 months available for data collection, three facilitators expressed a firm interest in participating in the project, but only one facilitator, Esther (a pseudonym to protect anonymity) was able to arrange meetings - five in all - at which both the victim and offender consented to recording. Although I met the facilitator at the start of the project, I was not involved in the work to record the meetings and obtain the initial transcription of them; Chris Birkbeck and Greg Smith were.

Restorative justice meetings do not always occur on a regular basis and when they do, the work carried out prior to one happening can be lengthy. The pace is set by the victim and offender and can involve several visits from the facilitator, ensuring both parties feel ready before the meeting takes place (Wallis & Tudor, 2007). When a meeting became available, Esther would inform Chris Birkbeck and Greg Smith who would discuss the location of the meeting, arranging to record the data.

Participants received a full description of the research and the interest in recording the meeting (audio and, if possible, video). They were given the opportunity to ask any questions and they read and signed a document declaring informed consent prior to recording the meetings. Chris Birkbeck or Greg Smith would attend the location of the meeting and set up the recording equipment. The recording equipment would then be left running before the participants arrived and was only switched off after they left; thus, during the meeting no member of the research team was present. Recordings were collected by Chris Birkbeck and Greg Smith and stored securely using a protective password. Participants were given seven days to change their mind about being involved in the research but none of them did. Following this, I was given access to the recordings which I stored securely using a protective password.

The restorative justice meetings were all audio-recorded and two were video-recorded. The video recordings will not be examined as part of this research project because the analysis would not be consistent using two video-recordings when the rest only have audio-recordings available. In research conducted by Shapland *et al.*, (2011, p.57), facilitators attended training that emphasised 'saying very little, but using silence and non-verbal prompts where necessary to encourage participants to speak'. Examining non-verbal communication can demonstrate 'the way participants organise their bodies in the course of an activity' revealing how each 'overtly or covertly participate in the sequence of action' (Mondada, 2013, p.47). Rossner (2011) examined facial expressions and non-verbal cues in additional to spoken discourse when observing one restorative justice conference. The examination of non-verbal cues complemented the analysis of talk because Rossner (2011) was able to identify emotional turning points in the interaction. The examination of talk alone does not reveal the emotional tone of restorative justice meetings. When examining audio-recordings, the silences in the talk were explicitly identified and considered. Non-verbal communication such as body language and facial expressions were not examined because video recordings were not

available for all five meetings. Examining non-verbal communication in this restorative justice scheme would have been useful in clarifying spoken ambiguities, observing the participants during times of silence, tracing gaze direction and establishing the emotional tone of the meeting. Whilst non-verbal communication would have added to the findings of this research, it was not essential to answering the research questions. This restorative justice scheme followed a format that closely adhered to a script, consisting of question-answer sequences. The examination of talk revealed how objectives were accomplished through talk whilst adhering to institutionalised ways of speaking, highlighting finer details of the interaction. The audio recordings were initially transcribed by a commercial company, and I was given a copy of these transcriptions for checking and correction. An overview of the five restorative justice meetings will now be provided, including a description of the participants who attended.

4.3 The Restorative Justice Meetings

The restorative justice meetings were conducted by Esther (the main facilitator), a probation officer who had received training in restorative justice from a local police service. She initially had support from the probation service to organise restorative justice meetings. When the service was privatised in 2014, she lost that support and continued to set up restorative justice meetings as a personal project. The initial contacts came from individuals connected with the probation service, either as probation officers who acted as facilitators or attended as victims, or as clients who were the offenders present in each meeting. Esther had facilitated approximately 20 restorative justice meetings prior to those that were recorded for this project.

The seating arrangements of the meetings were organised according to the preference of the victim, considering where they would feel most comfortable. In Meetings One and Two there were two facilitators present, the first facilitator questioned the offender, and the second facilitator questioned the victim. In Meetings, Three, Four and Five, one facilitator was present alongside another person who was there to support or observe the process. In Meeting Three, there was no victim present and the additional attendee was an Alcohol and Drug Support Worker, not qualifying as a proxy victim because she had not experienced the crime in question; in Meeting Four, the additional person was the manager of the victim; and in Meeting Five, a person was present to observe and gain insight into the restorative justice process. Each meeting typically lasted an hour or just under. A summary of each meeting will

be provided below, including a list of participants present. The names of participants along with any identifying information have been changed for the purpose of confidentiality. Participants were made aware of this as part of the informed consent process.

4.3.1 Meeting One

Offender - Steven

Victim - Deb

Facilitator 1 - Esther

Facilitator 2 - Anne

The incident happened 9 years ago, and Deb was Steven's Probation Officer. Steven was being supervised on licence, having served half of a prison sentence. A breach occurs when an offender does not comply with the conditions attaching to their licence and can lead to being returned to prison. Steven failed to comply with the conditions of his licence, resulting in Deb attempting to give him his breach at an arranged appointment which he failed to attend. When he subsequently went to the probation office, he said he had not received the letter regarding his missed appointment and was handed his breach notification by Deb. Steven reacted angrily, directing verbal abuse towards Deb, and spitting at her through the hole in the glass that separated them. Deb was pregnant when this incident occurred.

4.3.2 Meeting Two

Offender - Danny

Victim - Imran

Facilitator 1 - Esther

Facilitator 2 - Sarah

It was Danny's birthday on the day of the incident. Danny drove his car into a city centre to meet some friends to celebrate, despite not having a driving licence. While there, Danny received a phone call from his cousin telling him that there were drugs in the car. In response, he decided to drive home. On his way home, Danny noticed a police car following him and in

panic he increased his speed and drove his car into the side of a bus. The bus had no passengers on it but the driver, Imran, was physically and mentally affected by the incident.

4.3.3 Meeting Three

Offender - Dave

Alcohol and Drug Support Worker - Denise

Facilitator 1 - Esther

Dave ran up debts for personal cocaine use, resulting in him having to sell cannabis to try and pay these debts off. A year prior to the meeting, Dave was convicted of possession of cannabis with intent to supply and given a suspended sentence. Denise worked with a local Drug and Alcohol Recovery Service. Drug offences are often termed 'victimless crimes' because there is no direct victim, although the harm is considered to affect the drug user, the drug user's family, and society. This is the only meeting in the dataset where a victim did not attend. Denise was present in this meeting because of her professional experience in this field, not as a proxy victim.

4.3.4 Meeting Four

Offender - Brian

Victim - Simon

Victim's Manager - Claire

Facilitator - Esther

Co-facilitator - Leanne

Brian was serving a prison sentence when the offence took place. Simon was Brian's Probation Officer and was working with him to process his release from prison. Brian felt anxious about the prospect of being released, having nowhere to live when this time came. Brian was informed that upon release he should present as homeless at the Salvation Army where they could potentially accommodate him. Brian reacted angrily, saying he was going to kill Simon and mentioned carrying a machete, resulting in him receiving a longer prison sentence.

4.3.5 Meeting Five

Offender - Rob

Victim - Pete

Facilitator - Esther

Observer – Rosie

Rob waited in a local gym whilst another person waited outside and selected Pete's car to steal. Rob was given information about what Pete looked like and then observed which locker he used in the gym. Rob broke into the locker and stole Pete's car keys, enabling him to steal the car and deliver it to his associates. Rob was arrested for this offence and received a prison sentence which he had already served prior to the restorative justice meeting taking place.

Now that an overview of the five meetings has been provided, it is important to look at the script that the facilitator(s) used in each meeting to guide their actions. The script below was provided by Esther.

4.4 Restorative Justice Meeting Script

Introduction
Welcome. As you know my name is…………. and my co-facilitator is ………….
Before the meeting begins, I will introduce everyone and say why they are here.
Firstly, we have………….
We also have………….
Also, in the room with have………….who is………….
The meeting will look at what happened on…………..and how this behaviour has affected others.
None of you are here to decide whether anybody is a good or bad person. You are here to explore how people have been affected by what has happened, and hopefully for all of you to work towards repairing the harm that was caused.
I will make sure that you will be given the chance to have your say, and to have other people listen to you. After everyone has had their say, I will make sure that you all have an opportunity to ask questions or respond to what has been said.
Does that seem fair to everyone?
Can I ask that if anyone has a mobile phone, they switch it off?
Ground rules
Can I ask that we all act appropriately whilst this conference takes place? Can I ask for no swearing or abusive language? Also, there must be no interruptions whilst people are speaking. Do you all agree?
To Offender(s)
I will start by asking…………..to tell everyone what happened.
What did you do?

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What did you do then?
What were you thinking at the time?
What were you feeling at the time?
What have your thoughts been since that time?
How do you feel now?
Who do you think has been affected by what happened?
Who do you think has been affected by what you did?
How do you think……………has been affected by your actions?
Thank you for what you have told us. We will no find out how others have been affected. I'll then come back to you to give you the opportunity to respond to what they say.
To Victim(s), Victim Supporters, Offender Supporters
How did you become aware of what happened? (Don't use this if the answer is obvious).
What were you thinking at the time?
What were you feeling at the time?
What have your thoughts been since that time?
How do you feel now?
What has been the hardest think for you?
Who else has been affected by this?
To the offender
You have just listened to everybody and heard what they have had to say about what happened and the harm that has been caused. Is there anything else that you want to say?
Do you see that the choices (you) made then have caused harm?
Do you think you need to do something to repair the harm?
It is important to consider what needs to happen to repair some of the harm caused.
To Victim (s), Victim Supporters, Offender Supports
What do you want to come out of this meeting?
You have heard what has been said. What do you think needs to happen?
What do you think is the right and fair thing to do?
To All
Does anyone have any questions they would like to ask or anything they would like to say?
Conclusion
To summarise then……………agreed to……………Is that correct?
To All
How do you feel about what has been said?
Before closing the meeting, is there anything else that anyone wants to say?
Thank you all for coming today - there are refreshments available if you wish.

The script served as a kind of checklist, carried as a paper document to each meeting. The facilitator placed the script in front of her and used it to guide her actions, reminding her of the order of speaking. The script was not a straitjacket; it could be adapted and flexibly used by the facilitators, but the recorded meetings showed that it was followed very closely with the questions being asked in the ordered way identified above. The talk moved away from the script when the answers given did not meet the institutional agenda. The facilitator would then use her position to achieve the institutional agenda by making an assertion that invited the participant to agree. These instances will be demonstrated and examined in the chapters that follow. The script was evidence that the talk was organised to achieve objectives that

were driven by the institutional agenda, demonstrating that what was said had relevance for understanding the nature of the restorative justice encounter. Analytically speaking, the various phases of the script included: the opening of the meeting, the offender account, the victim account, the reparation phase, and the closing of the meeting. This script was not dissimilar to an alternative script used in the RISE project, both used open questions and were structured into ordered phases. In each phase the facilitator asked questions, pre-allocating a participant to answer and attempting to achieve a particular action. The opening of the meeting started with the facilitator introducing herself and the other participants involved. The focus of the meeting was identified as looking at what happened, how this behaviour affected others and repairing the harm. The opening of the meeting established the facilitator's role as the person who would be giving the participants the opportunity to have their say and be listened to, invoking the procedures to come whilst also setting ground rules. Arguably, the questions in the offender account phase attempted to achieve the objective of co-constructing a narrative that established responsibility and an understanding of the impact the crime had on others. The questions asked in the victim account phase provided an opportunity for victims to tell their story and have it heard by the listening offender, promoting a full understanding of impact. The questions asked in the reparation phase invited the offender to apologise, which is a form of symbolic reparation, and focus on the future and moving forward. Reparation does not always happen in this phase of the meeting, but the questions laid out in the script invite this to occur.

A limitation of this sample of meetings is that they all involved Esther as the main facilitator, resulting in a restricted representation of the restorative justice process because meetings conducted by different facilitators were not included as part of this analysis. Arguably, any patterns identified could reflect the way the facilitator conducted herself as opposed to the interaction itself, making it difficult to generalise results. Additionally, Meeting Three was organised differently and there was no victim present, making comparison with the other meetings difficult. However, including this meeting contributes to understanding different restorative justice processes that vary based on the participants that attend, highlighting the impact that this has on achieving institutional objectives. Finally, the small number of restorative justice meetings analysed makes constructing robust generalisations difficult. However, these five meetings will be analysed in a way that has never been done before, providing a rich empirical analysis that contributes to existing research.

4.5 Preparing and Examining Data

I listened repeatedly to the audio-recordings to check and ensure the adequacy of the transcriptions written by the commercial company. The first stage of data analysis involved selecting segments from the transcript for conversion into codified conversation analysis. Conversation analysis is an inductive approach to research which allows the data to reveal features of the interaction that require further examination. When creating my own transcripts, I focused specifically on what was said and used Jefferson's (2004) transcription system, highlighting intricate details of the interaction. In addition to the words spoken, overlapping talk, latched turns and pauses were identified as relevant to examining this restorative justice scheme. Overlapping talk was reflected in the transcripts when two participants spoke at the same time. In the restorative justice meetings, overlapping turns showed participants moving away from institutional talk revealing either cooperative agreement or attempts to dominate and occupy another participant's turn space by interrupting.

Latched turns were identified when a turn constructional unit ended, and another began with no gap or pause between turns. In the restorative justice meetings, latched turns revealed the coordinated and cooperative nature of the talk which 'can be critical for understanding what is being accomplished interactionally' (Hepburn & Bolden, 2013, p.60). A pause was reflected in a silence that occurred when the current speaker selected the next speaker, and the next speaker remained silent, or in silences that occurred during a participant's turn. Pauses were measured by tenths of seconds using the method 'none-one-thousand'. This process worked by counting the syllables of each word reflecting the measure of the tenth of seconds passed. To illustrate,

> If the silence is broken immediately following 'none', a 0.2 second silence is indicated; if silence is broken at 'none one', a 0.5 second silence is marked; if the silence is broken at 'none one thou-', a 0.7 second silence is indicated; if the silence is broken at 'none one thousand', the silence is a full second in length, and so on' (Hepburn & Bolden, 2013, p.60-61).

In the restorative justice meetings, extended pauses revealed difficulties in the interaction, marked by hesitations which prepared recipients for a dispreferred response (Pomerantz, 1984). Pauses have 'interactional consequences' which upon examination revealed how participants responded to and managed these occurrences to achieve the institutional agenda (Hepburn & Bolden, p.61).

The accurate identification of key conversational elements was managed through repeated listening and checking of the data. I anonymised names and places, maintaining the confidentiality of the participants. Transcriptions were formatted into tables with line numbers for the purpose of presenting segments selected from the data in an identifiable way. The conversational tools used to approach data were the 'six dimensions of difference' (Drew & Heritage, 1992): *turn-taking*, *turn-design*, *lexical choice*, *epistemological and other forms of asymmetry*, *sequence organisation* and *overall structural organisation*. When examining turn-taking, an area of particular interest was preference organisation which revealed how the facilitator managed answers to questions perceived as inadequate. In addition, when examining asymmetry, the way questions were asked by the facilitator reflected the level of knowledge held revealing how the institutional agenda was achieved. These conversational tools were the overarching lens through which I examined the data, enabling conclusions to be made about what was institutionally distinct about this restorative justice scheme and how these tools contributed to achieving objectives. The transcription process supported this endeavour by illuminating these conversational tools more significantly, highlighting intricate details of the interaction.

The restorative justice meetings were examined and identified as a form of institutional talk, formally organised and structured around a script that was enacted throughout the process. I started by observing the opening remarks of each meeting where a pre-announced structure was set up, invoking procedures (Neilsen *el al.*, 2012) to come in the following phases. The opening remarks in Meetings One, Two, Four and Five will be examined to highlight the institutionally distinct nature of the restorative justice meetings. Because Meeting Three was informal, a separate analysis was required, and the opening remarks made there will be examined in Chapter 8. There are some variations in the opening remarks, however, what was said in each meeting is similar; therefore, the opening from Meeting Five will be included as an example, separated into two parts to avoid including a large transcript.

```
Example 14 - Meeting 5: 73-91
    73   Esther  This meeting today is (.) is about focusing
    74           on what you did (.) Rob (.) So it's
    75           looking (.) I'm going to be asking you
    76           questions to start off with (.) so the
    77           meeting is to focus on your behaviour (.)
    78           but to look at how that has actually
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79          affected Pete and (.) members of Pete's
80          family (.) friend's whatever so we'll (.)
81          well (.) that'll emerge as the meeting
82          progresses (0.2) we are not here (.) No-
83          one's here to decide whether anybody is a
84          good or ba:d person (.) it's not about that
85          sort of judgement being made (.) uh:m we're
86          here really just to explore how people are
87          (.) affected b:y (.) crime and a specific
88          crime in this case (.) uh:: (.) and
89          hopefully work towards (.) if it's (.) if
90          it's appropriate work towards repairing
91          some of the harm


Example 15 - Meeting 5: 105-125
105  Esther  I'll make sure that everybody has a chance
106          to have their say (.) s:o this is very much
107          about both of you having (.) a voic:e to
108          express (.) what was going on for you at
109          that tim:e (.) but also to listen to each
110          other so I would ask (.) that you don't
111          interrupt (.) I', sure I don't need to
112          really say this (.) I'm sure it's not going
113          to (.) but (.) it's worth (.) they are sort
114          of ground rules if you like (.) but it's
115          about being respectful of each other (.)
116          not interrupting (.) listening to what each
117          other's got to say (0.2) uh:::m (.)and
118          afterwards you'll each have a chance to
119          respond to the other ask any further
120          questions s:o (.) I will ask questions of
121          you initially (.) and in a way I will kind
122          of sit back and let the two of you if you
123          have any questions you want to ask of each
124          of each other (.) that's the chance for you
```

The facilitator (Esther) outlined 'the goal orientated part of achieving the overall institutional purpose' (Neilsen *et al.*, 2012, p. 1458) by saying that the meeting focused on what the offender did, his behaviour, how this affected the victim (lines 73-80) and 'repairing some of the harm' (lines 90-91). The systematic ways that the objectives were intended to be achieved was through a specialised turn-taking procedure with pre-allocated roles. Esther said, 'I will ask questions of you initially' (line 120-121), demonstrating her pre-allocated role as questioner whilst Rob (offender) and Pete (victim) were pre-allocated to answer or listen whilst the other answered. Esther emphasised the importance of 'listening to each other' (lines 109-110) and not interrupting, highlighting the limited participation rights of the victim and offender. The reparation phase was said to be 'a chance to respond to the other and ask any further questions' (lines 118-120), highlighting the overall structural organisation of the meeting as well as suggesting the agenda driving each phase. The offender account was about eliciting information about what happened, establishing responsibility, and promoting an understanding of impact. The victim account was about placing the victim in a position to tell their story whilst orientating the impact for the purpose of the pre-allocated listening offender. The reparation phase was focused on repairing the harm in whatever way was appropriate. When Esther talked about the systematic nature of the restorative justice meeting, she used the word 'I', emphasising her control over the interaction saying, 'I'll make sure that everybody has a chance to have their say' (lines 105-106) and 'I will ask questions' (line 120). When Esther talked about the objective of the meeting, she emphasised a collaborative approach, 'we're really here' (lines 85-86), demonstrating the need for participants to align with the procedures to achieve the institutional objective. Previous research has similarly shown that opening statements in institutional contexts affect the way the encounter is managed and how participants align themselves to their given speaker identities (Hutchby, 1999).

The analysis was approached by examining each phase of the restorative justice meeting separately, in the same order as they occurred: the offender account, the victim account, the reparation phase. I examined the talk, identifying what made it institutionally distinct and how this contributed to the achievement of the objectives of each phase. I asked how formal talk contributed to information being elicited from offenders that helped establish responsibility and promote an understanding of impact. I asked how formal talk helped

victims orientate information to listening offenders, promoting a full understanding of impact. I asked how formal talk triggered an apology from offenders, whether victims acknowledged and accepted these apologies, and the impact that these segments of talk had on the remedial interchange taking place. Throughout the analysis, I examined instances of 'restorative talk' which included an acceptance of responsibility by the offender, an understanding of the harm caused to the victim, an apology to the victim (constituting 'symbolic reparation'), reactions by the victim, and instances where offenders and victims engaged in friendly conversational turns, demonstrating a shift in their relationship.

I became particularly interested in the ways that offenders and victims were questioned in the restorative justice meeting. I started by counting the number of questions the facilitator asked offenders and victims in the first two phases of the meeting following the opening remarks, revealing who was asked the most questions. I then approached the data by examining the questioning styles used in the offender and victim account, the answers given and the facilitator's response to this, identifying any challenges to speakers that occurred in the talk, thereby revealing whose talk was scrutinised the most. I identified two types of questions asked in the restorative justice meetings, that used strategies by speakers to demonstrate their superordination or subordination of the listener(s) which constructed power they had over knowledge. 'Knowing formats' demonstrated a high level of knowledge presented in the form of a declarative statement that invited confirmation and 'unknowing formats' demonstrated a low level of knowledge presented in an open-ended way inviting an elaborate response. I counted how many knowing and unknowing formatted questions were asked in the offender and victim account identifying whose talk was more constrained and how this contributed to achieving the objective of restoration in each.

In each phase, I examined the specialised *turn-taking* procedure, consisting of facilitators pre-allocating themselves to ask questions and victims and offenders being pre-allocated to answer them. I explored how facilitators managed *sequence organisation* through their evaluations of the adequacy of the answers given to questions by promoting sequence expansion or closure, co-constructing a narrative fit for the restorative justice context. The *overall structural organisation* of meetings was designed to achieve the objectives at each stage, contributing to restoration in the reparation phase. In examining the data, I identified a clear imbalance in the relationships between the participants and such *asymmetry* was apparent in *turn-design* and *lexical choice*. Examining the data in this way allowed me to

look at the action the talk was 'designed to perform' and the 'verbal construction through which the turn's activity' was 'accomplished' (Drew & Heritage, 1992, p.32).

As described above, Meeting Three was organised differently, was more informal and no victim attended; therefore, a separate analysis was conducted. I examined each phase, making direct comparisons with the ordered phases of the other meetings. I examined the impact that informal talk had on achieving the institutional objectives associated with restorative justice.

4.6 Evaluation

This section will start by identifying the ways in which qualitative research methods are tested for validity and reliability, using alternative criteria that include truth value, consistency, neutrality, and applicability (Lincoln & Guba, 1985). Each will be defined and evaluated in relation to the methods used for this research project.

Truth value involves acknowledging that personal values exist, which can influence the way in which data are collected and analysed to encourage a particular outcome resulting in methodological bias (Noble & Smith, 2015). Methodological bias is less apparent when using conversation analysis because of the approach of 'unmotivated looking', which means there are no assumptions or pre-existing beliefs prior to analysis. Whilst I approached the data with the intention of observing institutional talk, I did not have any pre-existing beliefs about what I would find; the data revealed these phenomena. The elimination of bias is not possible (Lincoln *et al.*, 2011) and the Hawthorne effect (Landsberger, 1958) is a classic example of the presence of recording equipment modifying participants' talk because of an awareness of being recorded. Whilst there is no way to detect this possible effect, one argument for minimal bias is that researchers often report that longer periods of exposure result in participants adapting and largely forgetting about the presence of recording equipment (Rosenstein, 2002). Interviews and observations are a product of researcher manipulation, and they are selected based on preconceptions of what is important (Heritage & Atkinson, 1984). By contrast, recordings can be replayed and studied extendedly (Sacks, 1984). Recorded data reduce the limitations of intuition and recollection, enabling a repeated examination of the interaction, promoting the accuracy of the observations made (Heritage & Atkinson, 1984). In the current project, the recordings were replayed numerous times and repeatedly checked and emerging patterns and themes were identified. Extracts of the talk

were provided for readers to make their own judgements, resulting in reduced confirmation bias.

Consistency is based on the decisions of the researcher and whether findings would remain the same if another researcher were to approach the data (Noble & Smith, 2015). I argue that the restorative justice meetings in this scheme represent a form of institutional talk. When approaching data from this perspective, the starting point of the analysis is the professional (facilitator) and how the lay people (victim/offender) respond to her. If a researcher were to focus on the interaction from a different starting point then this might alter the findings (ten Have, 1990). However, if the data were approached in the same way then the findings would most probably remain the same. There is an advance in the reliability of this method over participant observation and interview note-taking because the transcripts used reproduce what was said so the reader is in the same position as the analyst, determining the adequacy of the analyst's interpretation. Neutrality involves acknowledging the difficulties of 'prolonged engagement with participants and that the methods undertaken, and findings are intrinsically linked to the researchers' philosophical position, experiences, and perspectives' (Noble & Smith, 2015, p.34). Conversation analysis does not involve prolonged engagement with participants because interactions are audio-recorded; therefore, no direct interaction takes place between the participants and researcher. Meetings with Chris Birkbeck and Greg Smith (PhD supervisors) provided an opportunity to discuss data and identify emerging themes, offering an arena to appropriately challenge any assumptions and review provisional findings, promoting neutrality within the process.

4.7 Conclusion

This chapter has described the data collection process and the method used in data analysis. Examining data involved repeatedly looking at segments from the transcripts, using the conversational tools identified in the 'six dimensions of difference' (Drew & Heritage, 1992) to demonstrate institutional talk in the restorative justice process. Restoration is identified as the main objective of restorative justice and yet this is difficult to achieve. Moving away from the idea of restoration in the literal sense, this research observes instances of 'restorative talk' demonstrated in the ways highlighted in this chapter. The aim of the project was to identify how institutional talk contributed to achieving or impeding 'restorative talk'. This chapter has provided an evaluation of the methods used, concluding that conversation analysis reduces

methodological bias, the presence of recording equipment results in minimal bias, researcher bias is prevented, and consistency and neutrality are enhanced. The following chapters will present the findings from the research project.

Chapter 5

The Offender Account

5.1 Introduction

This chapter will focus specifically on the offender account phase. In the facilitator's opening remarks, the offender account was said to address what the offender did and the impact this had on the victim and members of the victim's family, while attempts to repair the harm would come later in the meeting. Achieving reparation later in the meeting meant that offenders must first understand the impact the offence had on others as well as taking responsibility for their actions. The offender account was the first step in eliciting information that promoted this understanding, playing an important part in the overall structural organisation of the meeting in working towards repairing the harm later. What the offender said was managed through a specialised turn-taking procedure where questions were asked, and the responses given were negotiated using sequence organisation that promoted expansion or closure. This specialised turn-taking procedure placed the facilitator in a pre-allocated position to ask the questions, resulting in her being able to emphasise or contest what had been said whilst the offender was placed in a position to respond to this.

The formal institutional procedures framed the offender's account and the facilitator's aim was to get offenders to accept responsibility and demonstrate an understanding of the harm caused to the victim. Offenders may have wanted to say something different, but instead they were persuasively talked into redefining their narrative, achieving these objectives. The focus of this chapter will be on how information was elicited from offenders that focused on the impact the offence had on others and how responsibility was encouraged. To start, the features of institutional talk will be revisited to facilitate an understanding of the analysis. The chapter will then examine the way that questions were constructed by Esther, identifying how information was emphasised and contested to make the narrative fit for the restorative justice context. In addition, it will examine how elicited information was managed in a systematic way to co-construct the offender's narrative through the question-answer framework, including through the use of continuers and acknowledgement tokens. The chapter will show how the talk of offenders was managed and scrutinised to achieve the objectives of accepting responsibility and promoting an understanding of impact.

5.2 Institutional Talk Revisited

Institutional interactions use practices different to those found in naturally occurring conversation, suggesting institutional problems are solved by modifying these conversational procedures, promoting the accomplishment of tasks. Formal interactions use different turn-taking arrangements to naturally occurring conversation. The basic principles of turn-taking involve one person speaking at a time with a minimal gap or overlap between turns and next speakers are selected to speak by the current speaker or by the process of self-selection (Sacks *et al.*, 1974). When two parties are involved in an interaction, one person speaks whilst the other listens to understand and decide their next course of action. Maintaining shared attentiveness in multi-party interactions can be more difficult. When one person is speaking, those listening may display diminished attention as they do not need to assess and decide their next course of action because any participant can be the relevant next speaker. Multi-party interactions classified as formal involve modified conversational practices, promoting shared attentiveness (Atkinson, 1982) because the problem of a single sequence of interaction being listened to by all participants is present (Atkinson, 1982). Order is produced by applying practical solutions that promote the 'shared attentiveness of co-present parties to a sequence of actions' (Atkinson, 1982, p.97).

The order is managed using 'turn pre-allocation', which involves participants being made aware of the order of speaking prior to the interaction sequence (Sacks *et al*., 1974, p.723). In the opening of the restorative justice meeting, the facilitator made offenders and victims aware of their pre-allocated turn to speak, ensuring one person spoke at a time whilst the other listened. The facilitator held the rights to decide who spoke when and what topics could be talked about, which is referred to as 'turn mediation' (Atkinson, 1982, p.103). When the victim or offender was pre-allocated to speak, they were placed in a position to respond to questions. The question-answer framework formed an adjacency pair, two parts relating to each other. The conversational action of asking a question calls for a particular response in the form of an answer, which is referred to as conditional relevance. If an answer to a question is not provided, then this is noticeably absent (Schegloff & Sacks, 1973), while an answer given can also be a noticeable 'wrong answer' (Komter, 2012, p.622). The facilitator would determine whether the answers given were accepted as adequate or not. The 'orderly transfer of speakership' (Atkinson, 1982, p.104) was organised through the question-answer framework because, whilst the facilitator was asking a question, offenders and victims would

attentively listen to know what was expected of them before they were pre-allocated to speak by answering.

Drew and Heritage (1992, p.47) argue that naturally occurring conversation is based on a 'standard of equal participation between speakers' and that institutional interactions are 'characteristically asymmetrical' and identifiably different to 'symmetrical relationships between speakers' in naturally occurring conversation. However, this argument oversimplifies asymmetries which can be apparent in all forms of talk (Linell & Luckmann, 1991). For instance, interactions between parents and children are likely to demonstrate asymmetry. The key difference is the 'direct relationship between status and role' and 'discursive rights and obligations' (Drew & Heritage, 1992, p.49). In institutional interactions, asymmetry is related to the participation rights of the individuals and many institutional encounters follow the question-answer framework resulting in the lay person rarely being able to initiate a sequence (Frankel, 1990). The professional can initiate new topics whilst also preventing topics becoming part of the conversation. Research has revealed power relationships between doctors and patients by counting the number of questions asked by each participant, examining the types of questions asked and counting how many interruptions occur in the interaction and by which participant. Findings revealed that doctors held more control over the interaction (Maynard, 1991).

Another type of asymmetry in conversation is based on the 'participants' differential states of knowledge' (Drew & Heritage, 1992, p.50). Knowledge asymmetry in naturally occurring conversation may shift on a turn-by-turn basis, but this does not occur in institutional interactions; instead, the professional maintains the knowledgeable position. When a speaker orientates information, this demonstrates their claim to knowledge, referring to the epistemic gradient, holding a K+ (more knowledgeable) or a K- (less knowledgeable) position. The positioning on this gradient is referred to as the epistemic status which relates to the territories of knowledge a person professes to hold in relation to others in a particular interaction (Heritage, 2012) which is jointly recognised by those involved (Heritage, 2013). Epistemic status is 'a collection of entitlements (or rights) and responsibilities (or duties) at a given movement, relative to other members of his social group' (Enfield, 2011, p.291-292). In institutional interactions, professionals hold certain entitlements over the talk, managing it in a particular way and holding responsibility to achieve objectives. Epistemic stance is concerned with the moment-to-moment expressions of these relationships that are designed

through turns at talk. The way in which a question is constructed reflects the K+ or K-gradient position the asker holds. The 'unknowing epistemic stance invites elaboration and projects the possibility of sequence expansion' (Heritage, 2012, p.6). This 'knowing' epistemic stance 'invites confirmation', promoting 'sequence closure' (Heritage, 2013, p.378), demonstrating the difference between asking a question (unknowing) and making an assertion (knowing).

Thompson (2017, p.4) expanded on the asymmetries of participation and knowledge by identifying 'three primary forms' institutions have over naturally occurring talk, and these consist of:

> 1. Procedural control over the interaction; 2. The ability of institutional agents to select facts that underlie the substance of the interaction; and 3. The ability to assert an "official" interpretative framework which is used to make sense of those facts.

Asymmetry as it relates to participation involves the procedural control of institutional practices and established roles that enable individuals to dominate the interaction by dictating who speaks, when, for how long and deciding when topics are changed. Institutional representatives select the substance of the analysis and their participation rights enable them to profess the knowledge they hold by emphasising points that are relevant to the institutional objective. These claims to knowledge assert an interpretive framework that involves promoting understanding about certain statements or challenging them in a way that prevents damaging interpretations (Thompson, 2017).

5.3 Accepting Responsibility

The questions asked in the offender account elicited information about what happened on the day of the offence; they encouraged responsibility and explored the impact that actions had on others. This section will look at how questions were used to achieve the objective of accepting responsibility. Power was exercised through conversational tactics and the narrative provided knowledge which was constructed in the question-answer format. The facilitator tactically constructed knowledge by emphasising or challenging what the offender had previously said in the form of a knowing formatted question, inviting confirmation. This ability was based on the facilitator's institutional role which enabled her to select relevant parts of what had been said (Thompson, 2017). When agreement was secured, we can infer that the narrative was co-constructed in a way that was fit for the restorative justice context.

This section will examine instances where the facilitator emphasised and challenged what had been previously said and how this contributed to achieving the objective of offenders accepting responsibility for what they had done.

The following extract shows how the encouragement of taking responsibility works in practice with the emphasis being on 'a lot of negative thinking' that took place before the crime.

```
Example 16 - Meeting 1: 201-222
    201  Esther  So there was a lot of (.) sort of quick
    202          thinking about=
    203  Steven  =Yeah=
    204  Esther  =all the good work I have done (.) you
    205          know=
    206  Steven  =Yeah=
    207  Esther  =everything ⌈else is gonna come⌉
    208  Steven             ⌊Well I thought I w⌋as doing=
    209  Esther  =Yeah=
    210  Steven  =do you know what I mean?=
    211  Esther  =Ok (.) s::o a lot of sort of self-talk in
    212          a way (.) a lot of=
    213  Steven  =Yeah=
    214  Esther  =everything I have done has come to nothing
    215  Steven  =Yeah=
    216  Esther  =I'm not gonna go back to prison so it all
    217          counts for nothing=
    218  Steven  =Yeah=
    219  Esther  =so a lot of negative thinking=
    220  Steven  =Yeah=
    221  Esther  =and that resulted in your (.) anger just=
    222  Steven  =Yeah (.) and that's just the action I took
```

Prior to the interaction above, Steven expressed that in the build up to the offence he had been annoyed and this resulted in him being verbally abusive and spitting at Deb (the victim). Esther then selected the substance of the interaction by emphasising points that were relevant

to the objective of eliciting information from Steven in a way that established responsibility, which was part of offender restoration. Esther did this by providing an account of Steven's feelings and reasoning (lines 201, 202, 204, 205, 207, 211, 212, 214, 216, 217, 219, 222), inviting him to agree. The account was developed in the form of a knowing formatted question, placing Steven in a position to answer the question in the preferred way of agreement which established responsibility.

This stretch of talk was an example of a co-constructed narrative, with the facilitator repeating and elaborating parts of what Steven had said. At this point, Esther was the main narrator of Steven's account, demonstrating the power she held to construct knowledge as the institutional representative despite it not being her experience. Esther persuasively re-narrated Steven's account by inviting him to agree to declarative statements. Latched turns occur when the transition from one speaker to the other takes place directly with no gap in between. Steven provided several latched agreement continuers (lines: 203, 206, 213, 215, 218, 220, 222) all consisting of the word 'yeah' and expanded his agreement by mirroring what Esther had previously said (line 222) as well as providing a cooperative overlap (line 208). Prior to this exchange, Steven had claimed that his behaviour was a split-second reaction which attempted to minimise his moral fault. He tried to blame his behaviour on being handed a breach without warning in the main office, implying that Deb (the victim) caused his outburst. The way that Esther utilised her power to construct knowledge in the transcript above established a link between thoughts, feelings and behaviour demonstrating full responsibility, with Steven acknowledging at the end of the transcript that his thoughts led to the action that he took (line 222).

The following extract involved the facilitator encouraging the offender to accept responsibility for his actions by acknowledging that the crime 'wasn't just a one off'.

```
Example 17 - Meeting Five: 148-165
    148   Esther  Uhm (.) as much as you can remember can I
    149           ask you to (0.2) to in a way put it in
    150           context (.) can you tell us a little bit
    151           about (.) what was happening for you at the
    152           time (.) back in February (.) March?=
    153   Rob     =I was out of work and it was my daughter's
    154           birthday (.) I was °obviously someone° (.)
```

```
155          obviously give me an idea to come with em a
156          and do it so I went (.) that was (.) uhm
157          (.) uhm (.) uhm that's (.) I don't really
158          have an excuse but (0.2) uhm (0.5) I went
159          with him really=
160   Esther =Cause I mean this wasn't just a one off
161          (.) was ⌐it?⌐
162   Rob            ⌊Fiv⌋e yeah=
163   Esther =Yeah (.) and what (.) period of time did
164          those five happen?=
165   Rob    =Over about a (.) month
```

When Rob answered the question asked by Esther about what happened during the time of the offence (lines 148-152), he started by saying, 'I was' (line 153) before initiating a self-repair that said, '°obviously someone give me the idea°' (line 155) to commit the offence, shifting responsibility onto someone else. Rob's turn was scrutinised by Esther, demonstrated in the challenge that she introduced in a latched knowing formatted question 'cause I mean this wasn't just a one off (.) was it?' (lines 160-161). This showed that Esther held knowledge of Rob's offending history which was likely to have been obtained in the pre-meetings. This declarative statement invited Rob to agree, which he did, confirming that he had committed the crime on five previous occasions (line 162). Although Rob held the rights to the information because it was his experience, Esther's epistemic status placed her in a position to produce the question which encouraged him to accept responsibility.

The following extract involved the facilitator encouraging the offender to accept responsibility by claiming his 'words weren't <u>twisted</u>' but were interpreted a particular way based on what he had said.

```
Example 18 - Meeting 4: 310-352
   310  Esther Was it that they were twisted or was it just
   311         that people heard what you said and (.) and
   312         came to a conclusion?=
   313  Brian  =Probably yeah (.) most probably was yeah=
   314  Esther =So your words weren't twisted (.) were
   315         they=
```

```
316  Brian    =Um=

317  Esther   =they (.) they used exactly the same words=

318  Brian    =Um=

319  Esther   =but maybe their perception was=

320  Brian    =Um=

321  Esther   was different than how you'd intended it?=

322  Brian    =Hm (.) well (.) it weren't put across that

323           I said (.) for my own protection (.) that

324           was not put on ⌈the (.) the⌉ thingy (.) one

325  Esther                  ⌊.hhh I think⌋

326  Brian    (.) one of them did say it (.) he said he's

327           saying for his own protection=

328  Esther   =Um hum=

329  Brian    =but that was one of the workers in the

330           workshop where the incident=

331  Esther   =Yeah=

332  Brian    =happened=

333  Esther   =But at that the time you said it=

334  Brian    =Um hum=

335  Esther   =you didn't say it was for your own

336           protection (.) it was said=

337  Brian    =Um=

338  Esther   =after you'd made=

339  Brian    =Yeah=

340  Esther   =the threats to kill Simon (.) you then

341           said=

342  Brian    =Yeah=

343  Esther   =I'll get a tent and a machete=

344  Brian    =Yeah=

345  Esther   =so (.) again (.) if you put those together=

346  Brian    =Yeah (.) it don't sound good=

347  Esther   =No=

348  Brian    =°Um=

349  Esther   =Okay (.) so you have an understanding of
```

```
350                 ⌐that?⌐
351   Brian   └Yeah ┘ yeah (.) I do have an understanding
352             of that (.) yeah
```

Brian claimed that his words had been twisted, leading to the question asked by Esther which challenged his narrative, 'was it that they were twisted or was it just that people heard what you said (.) and came to a conclusion?' (lines 310-312). This challenge was a persuasive attempt to get Brian to agree to a new narrative. Brian reluctantly agreed with a latched turn saying 'probably' on two occasions (line 313). When Esther did not receive the preferred response of agreement, she then asked a knowing formatted question (line 314-315) which formed a declarative statement, 'so your words weren't <u>twisted</u> were they (.) they (.) used exactly the same words but maybe their perception was different from how you intended it?' (lines 314, 315, 317, 319, 321). Brian provided latched continuers (lines 316, 318, 320) whilst Esther used her status to assert knowledge claims over Brian's narrative, despite not being there. Status relates to the entitlements and responsibilities at a given moment and is relative to others in the group (Enfield, 2011). Esther's procedural control was apparent because of her pre-allocated questioner role, demonstrated in leading questions that invited the preferred response of agreement. However, Brian disagreed with Esther (line 322) attempting to negotiate his narrative based on the knowledge he held from his own experience. During Brian's response, Esther attempted to interrupt him (line 325) by invading his turn space in a competitive way.

Brian maintained the floor, Esther provided latched continuers (lines 328, 331) and then in a latched turn she said the word 'but' (line 333), showing disagreement before then producing another knowing formatted question. This statement referred to Brian not saying that the machete was for his own protection and concluded, 'so (.) again (.) if you put those together' (line 345) which invited and achieved confirmation from Brian, 'Yeah (.) it don't sound good' (line 346). The questions asked in Example 18 were leading and showed the restrictions placed on Brian to respond in a limited way. The knowledge asymmetry was demonstrated in Esther's 'ability to assert an official interpretative framework' (Thompson, 2017, p.4) which she used to help Brian accept responsibility, which he did despite initially disagreeing. Esther's procedural control over the interaction was based on her epistemic status which placed her in a position to assert claims to knowledge. Esther did not hold more knowledge than Brian, but her pre-allocated role placed her in a position of power to

construct knowledge, placing Brian in a position to respond to her assertions. Esther adjusted her turns to 'assert, contest and defend' (Heritage, 2013, p.370), starting with an unknowing formatted question and then adjusting her epistemic stance by asking knowing formatted questions that resulted in agreement. Esther assessed Brian's knowledge gradient by asking, 'so you have an understanding of that?' (lines 349-350) and he agreed that he did with a cooperative overlap, mirroring what Esther had said (lines 351-352). This demonstrated that Brian had moved from a K- to a K+ position in terms of accepting responsibility.

The following extract involved the facilitator encouraging the offender to accept responsibility by highlighting 'the feeling part' before the offence. This resembles a similar point made in Example 16, that thoughts and feelings result in behaviour.

```
Example 19 - Meeting 2: 422-449
    422  Esther  =and the way you feel affects your
    423          behaviour (.) so we (.) you know (.) we
    424          talk about it often on often on probation
    425          terms (.) and it's the basis of pretty
    426          much everything we do in probation (.) is
    427          this idea (.) and so often we hear people
    428          say (.) well I just didn't think=
    429  Danny   =I'd say (.) u:m (.) I'm (.) I'm not using
    430          this as an excuse but I'm just trying to
    431          kind of make (.) u::m (0.2) make you
    432          understand (.) and u::m (0.2) what I mean
    433          when I say I wasn't thinking (.) when I say
    434          I wasn't thinking (.) I don't mean I wasn't
    435          (.) literally wasn't thinking (.) I mean I
    436          wasn't thinking the way I would normally
    437          think=
    438  Esther  =Okay=
    439  Danny   =cos normally u:h (.) for myself (.) the
    440          thinking process is longer than just=
    441  Esther  =°Um°=
    442  Danny   =doing what's on your mind (.) the most (.)
    443          it's thinking but it's not thinking=
```

```
444  Esther   =°Mm-hmm°=
445  Danny    =It's out of (0.2) out of fear (.) panic
446           (.) or ⌜whatever word⌝
447  Esther       ⌞↑Yeah (.) and⌟ so that's the
448           feeling part=
449  Danny    =Yeah=
```

Danny previously said that aspects of the offence happened 'without even thinking' and Esther used her epistemic status to challenge this. Esther asserted her expertise as a probation officer, claiming 'that what we know' (line 421) is that the way 'you think' affects 'your feelings' which then affect 'your behaviour' (lines 422-423). The reference to 'we' highlighted her institutional identity as a person who works as a professional within the probation service, asserting her claims to knowledge. Danny responded to this with a latched turn disagreement (line 429) that attempted to challenge the knowledge claims made by Esther. Esther listened to this response, providing latched continuers (lines 438, 441, 444). Despite the knowledge asymmetry in this interaction, claimed by Esther, Danny's disagreement showed that they were subject to challenge and negotiation (Izadi, 2018). And the negotiation that followed centred on qualifying and refining the meaning of 'not thinking' to not 'thinking the way I would normally think' (line 435-437). When Danny said that he acted out of 'fear' and 'panic' (line 445), Esther provided a cooperative overlap (line 447) that agreed with Danny using an interpretative framework to 'make sense of institutional facts' (Thompson, 2017, p.5) which aligned with what she had previously said, 'so that's the feeling part'.

The following extract continues to emphasise the point made in Example 19 about how feelings affected 'behaviour'. The facilitator attempted to encourage Danny to accept responsibility for his actions by acknowledging the thoughts and feelings that led to the offence being committed. The offence was being in possession of drugs, but Imran (the victim) was not the victim of the offence; he was the victim of the accident that occurred after Danny was pursued by the police.

Example 20 – Meeting Two: 451-496

```
451   Esther   =So (.) so your thoughts when (.) as soon
452            as you got the phone call from your cousin
453            (.) your thoughts were=
454   Danny    =Yeah ⌈do the next⌉
455   Esther         ⌊you know po⌋tentially I'm going to
456            get into difficulties here because of
457            what's in the ca:r (.) that led you to
458            those feelings of anxiety and (.) and
459            stress (.) caused you to leave your friends
460            (.) to get in the car to drive home (.)
461            then when you realised that you're being
462            followed by the car (.) your thoughts are
463            (.) I could get stopped here (.) I could
464            get into real difficulty (.) I'm not a
465            legal driver (.) I've got these drugs in
466            the car (.) again (.) that causes you to
467            put your foot down (.) to get away (.) so
468            all the way through it (.) your thoughts
469            are linked to how you're feeling (.) the
470            way you're feeling is how you behave (.)
471            which ends up with you (.) having this (.)
472            and again (.) what you said at the end
473            there is (.) your thoughts were (.) I've
474            done wrong here (.) I've potentially
475            har::med someone (.) I need to stop now (.)
476            so those thoughts are what caused you to
477            stop running=
478   Danny    =Yeah=
479   Esther   =and to actually (.) allow the police
480            officer to come and (.) arrest you (.) so
481            again (.) the way your thinking affected
482            how you were feeling (.) affected your
483            behaviour (.) so it just (.) I think it's
```

```
484          important just to acknowledge that (.)
485          these are not the thoughts that maybe you'd
486          like to have had=
487 Danny   =Yeah=
488 Esther  =they're not your normal thoughts=
489 Danny   =Yeah (.) they're not my normal thoughts(.)
490          but I did go through that=
491 Esther  =Yeah=
492 Danny   =and obviously I can't put anyone
493          responsible for those thoughts (.) I can
494          only put myself responsible for those
495          thoughts=
496 Esther  =Yeah yeah
```

Esther provided a summary (lines 451-477) that reflected what Drew (1992) referred to as the 'power of summary', showing that she as the questioner held control over the conversation (Sacks, 1992) resulting in her having the 'first rights' to pull together the information offered by Danny and 'draw conclusions' (Drew, 1992, p.507). This summary provided an interpretative framework that attempted to achieve the institutional agenda of promoting responsibility. The lexical choice in the summary demonstrated Esther's epistemic stance, 'I have done wrong here' and 'I have potentially har::med someone' (lines 473-475) because she was speaking on behalf of Danny in her pre-allocated questioner position. Esther's talk invited confirmation which was achieved when Danny provided a latched turn of agreement that mirrored exactly what Esther said (line 489-490), concluding with his acceptance of responsibility for his thoughts. Restorative justice discourse seeks to encourage responsibility for actions. It could be argued that the talk in this transcript was enacted in a way that promoted a proxy version of taking responsibility for actions because Danny accepted responsibility for his thoughts.

This part of the meeting has shown that knowledge asymmetries were not about one party holding more knowledge than another, instead it was dependent on how a speaker orientated to such asymmetry in the design of their talk (Drew, 1991). The summary reflected in the form of a knowing formatted question demonstrated the power to construct knowledge concerning Danny's behaviour and even somewhat his identity. Participation asymmetries

were demonstrated by Esther mostly speaking in Example 20, narrating Danny's account, highlighting the restrictions placed on Danny to agree. Although Danny held first-hand knowledge because the conversation was about him, Esther's epistemic status led to her persuasively encouraging him to re-narrate his account in a way that was acceptable to the restorative justice context. The next section will focus on parts of the offender account that encouraged offenders to understand the impact of their actions.

5.4 Understanding Impact

This section will focus on parts of the offender account that attempted to elicit information from the offender by addressing the impact of the incident on others.

The next extract shows the facilitator asking the offender how the victim was affected by his actions, to promote an understanding of their impact.

```
Example 21 - Meeting 4: 397-436
   397  Esther  Okay (.) Okay (.) .hhh and (.) ↑ho::w do you
   398          think (.) Simon was affected by=
   399  Brian   =Oh I think he probably did, generally
   400          probably scared, because (1.0) In a sense of
   401          (0.5) it probably would scare someone if
   402          someone's saying they're gonna kill ya and
   403          (.) if, if they're known for violence and
   404          stuff=
   405  Esther  =°Um hum°=
   406  Brian   =if someone threatened my mum (.) I don't
   407          know if she'll be scared or not but she'll
   408          be a bit (.) I'm thinking a bit w:ary (.) of
   409          what she was doing (0.2)
   410  Esther  .hhhOkay (.) s::o, and if (.) let's say
   411          Simon was scared (.) ho::w do you think that
   412          would affect him on a day-to-day basis?=
   413  Brian   =It probably (.) it affects his daily life
   414  Esther  (.) Ho:w? (.)
   415  Brian   Because he'll probably be watching over his
   416          back all the time or something (.)
```

```
417  Esther  °Um hum°=
418  Brian   =and I mean (.) not feeli::ng (.) safe in
419          where he is=
420  Esther  =°Okay°(.) and do you think anybody els::e
421          (.) was likely to have ⌐been affected?⌐
422  Brian                          └Probably his f┘amily
423          and everything yea:h=
424  Esther  =Okay (.) and how would they be affected?=
425  Brian   =They'll be affected through you know, is
426          some some someone going to come through me
427          door o:::r (.) is someone gonna get us when
428          I'm getting in me car o:::r going shopping
429          o:::r=
430  Esther  =°Yeah°=
431  Brian   =so forth=
432  Esther  =Yeah (.) so it (.) kind of (.) spills over
433  Esther  into a ⌐lot of⌐
434  Brian          └Spills┘ over into a lot of people
435          (.) yeah=
436  Esther  =Yeah
```

The specialised turn-taking procedure involved Esther asking questions and Brian being pre-allocated to answer in a topic-specific way that focused on the impact his actions had on the victim. Esther asked an unknowing formatted question (line 397-398) which invited Brian to elaborate, promoting sequence expansion (Heritage, 2012). Esther and Brian demonstrated a shared attentiveness, adequately anticipating the end of each other's talk before latching on their next turn (Sacks *et al.* 1974) and rapidly and accurately switched between listener and speaker roles (Magyari & De Ruiter, 2012). When silences did occur between Esther and Brian's turns, they lasted no longer than a minimal gap of 0.2 seconds. Silences before a response can be a sign of disagreement (Pomerantz, 1984) whereas latched turns show participants coordinating their actions to achieve a joint outcome (Sebanz *et al.*, 2006), highlighting the collaborative nature of the talk. Overlapping talk occurred where Brian prematurely answered the question asked by Esther (line 422) and agreed with Esther's claims (line 434), repeating her words exactly and completing her sentence. Whilst

interruptions can represent one speaker attempting to dominate the conversation in a competitive way by challenging the previous speakers claims, the instances in Example 21 represent cooperative overlaps because they demonstrated listenership and participation in a supportive way with no intention of interrupting the current speaker's turn (Tannen, 1994). Cooperative overlaps show support and agreement with another, viewing silences between turns as impolite or showing a lack of rapport (Saunders, 1999).

When Esther was not asking the questions, she was listening to the responses given by Brian and assessing them for adequacy. Esther used latched continuers such as 'um hum' and 'yeah' (lines 405, 417, 430, 436), taking the stance that Brian should continue talking (Schegloff, 1982). Esther did not specify her interpretation of the answers given; instead, she only indicated whether more information was needed or not (Atkinson, 1982). This is a distinct feature of institutional talk because in naturally occurring conversation, a third position is provided to close the sequence (Schegloff, 2007), referred to as a 'sequence closing third' (see Example 9). Common sequence closing thirds are 'oh' and 'okay' and they can provide assessments of what has been said. For example, 'hi, how are you?' could be answered with, 'I am fine' followed by the sequence closing third, 'that is good', providing an assessment of the previous turn (Schegloff, 1992). The continuers used in the restorative justice meeting were mostly neutral. The continuers demonstrated alignment, supporting 'the structural asymmetry of the story telling activity' which acknowledged the turn was still in progress and being allowed to carry on (Stivers, 2008, p.34). Minimal responses are 'deployable devices' that have consequences for the 'shape of the interaction' (Jefferson, 1983, p.17). The questions asked and the continuers provided co-constructed Brian's account by initiating topics and supporting its progression. The continuers used by Esther demonstrated active listening and promoted sequence expansion which afforded Brian the opportunity to provide an adequate response that was fit for context.

When Esther requested more information, she would ask another question in a way that emphasised what was expected in Brian's response. She demonstrated a shift in epistemic stance, saying, 'so, and if' before saying, 'let's say Simon was scared' before asking how he would have been affected 'on a day-to-day basis?' (lines 410-412). This very subtle change in lexical choice demonstrated a shift in the gradient of knowledge offered in the question. The word 'if' demonstrated a less knowledgeable (K-) position because it would have resulted in an unknowing format which is an open question whereas, 'let's say Simon was scared'

demonstrated a shift to a more knowledgeable (K+) position constituting a knowing format because it was an assertion. The change encouraged Brian to consider the impact that his actions had on Simon. Brian responded by saying, 'It probably (.) it affects his daily life' (line 413) not answering the specifics of the question by identifying 'how'. Esther intervened by asking 'Ho:w?' (line 414), pursuing a specific answer which was followed by a brief pause before Brian provided a response.

Answers perceived as adequate by Esther were concluded by using acknowledgement tokens, consisting of the word 'okay' (lines 410, 420, 424), spoken before a new question was asked which changed topic. Where continuers promoted sequence expansion, acknowledgment tokens promoted sequence closure, preparing to open a new topic, indicating a shift from 'recipiency to speakership' (Jefferson, 1983, p.200). Esther demonstrated recipiency when she provided continuers or remained silent during Brian's turns at talk and her shift to speakership occurred when she provided acknowledgement tokens. Acknowledgement tokens co-constructed Brian's account, marking certain aspects of it as completed.

The formal nature of the offender account encouraged Brian to consider the impact that his actions had on Simon. The question-answer framework and the use of continuers and acknowledgement tokens showed that Esther was co-constructing Brian's account. Brian was asked five questions in Example 21, which demonstrated the interrogative nature of the process. He was placed in a position to answer questions continually and was not given the opportunity to say more than a few lines in his answers, highlighting the conversational restrictions placed on him. During the co-construction of Brian's account, Simon (the victim) maintained the pre-allocated role of listener, supporting a shared attentiveness amongst all the participants. These pre-allocated roles restricted the participation rights of Brian and Simon, preventing them from initiating new topics, interrupting what was being said or directly talking to each other.

The following extract shows how the facilitator encouraged the offender to think about 'how else' his actions may have caused harm to the victim.

```
Example 22 - Meeting 2: 548-578
    548  Esther  So (.) and we'll hear from Imran in (.) in a
    549          minute (.) but (.) ho:w do you think your
    550          behaviour has affected Imran?
```

```
551  Danny    (2.0) The first (.) the first one was uhm
552           (.) his health (1.0) I could have (0.2)
553           °I could have affected his health in a very°
554           (0.5) massive way=
555  Esther   =Um hum
556  Danny    (0.5) stopped working (0.5) his family (1.0)
557           those are the two things that I (.) those
558           are the two main things that I mainly think
559           of (.) um (1.0) his health and his family
560  Esther   (0.2) °Okay° [[clears throat]] and when you
561           say health (.) what (.) apart from physical
562           health (.) how else do you think?
563  Danny    (0.2) Mental health (.) because (.) um=
564  Esther   =[[clears throat]]=
565  Imran    =[[clears throat]]
566  Danny    (0.5) he could have stopped driving=
567  Esther   =Mm-hmm=
568  Danny    =yeah (.) that could (.) that could have
569           been one of the barriers that I created (.)
570           in his mind (.) maybe he has a fear of
571           driving because of (1.0) stupid people that
572           make stupid decisions=
573  Esther   =Mm-hmm=
574  Danny    =°I could have affected him that way°=
575  Esther   =Okay (.) alright (.) thank you for that (.)
576           you've (.) you know (.) you've given an
577           honest account of what happened and (.) um
578           (.) yeah (.) it's appreciated
```

Procedural control was demonstrated by Esther's pre-allocated questioner role. She started by asking Danny an unknowing formatted question (lines 548-550) which placed him in a position to respond. Danny struggled to answer the question, demonstrated in his response which started with a 2.0 second pause (line 551), alongside several pauses throughout his turn (lines 552, 554, 556, 559). This indicated the seriousness with which Danny took the question because he struggled to find the appropriate words to answer it in an adequate way. Esther

provided latched continuers (lines 555, 567, 573) during Danny's responses supporting the progression of his talk. When Esther provided a continuer (line 555) prompting further talk, she remained silent and Danny met the expectation to continue talking despite a 0.5 second hesitation (line 556). Danny repeated himself on several occasions during this turn (lines 551, 552, 553) which showed that despite his difficulty in answering, he continued to fill the space where a response was expected, maintaining his pre-allocated role as answerer. Esther remained silent during Danny's turn (lines 556-559) despite the extended pauses, which was a demonstration of procedural control. Esther's silence played a similar role to that of a continuer, supporting the progression of his response, in the anticipation that he would provide an adequate one.

Esther's pre-allocated position enabled her 'to select the facts that underlie the substance of the interaction' (Thompson, 2017, p. 4). Referring to Danny's turn she said, 'apart' from the impact on his health, 'how else do you think?' Imran was affected (line 562). This question encouraged Danny to make sense of the institutional facts by creating an interpretative framework that involved understanding the impact of his actions. The request for more information demonstrated Esther's epistemic status because it showed that she had assessed Danny's previous response as not being adequate, highlighting the scrutiny Danny's talk was under. Esther was operating procedural control to obtain a more adequate response.

Previous extracts have shown facilitators encouraging offenders to expand on answers given about the impact of their behaviour on others. The following extract involved the facilitator asking the offender if there were 'any other reasons' why he would not commit the crime again. The purpose was to encourage him to think beyond the impact the crime had on himself and consider the impact on others.

```
Example 23 - Meeting 5: 265-304
    265   Esther  Okay (.) so what have your thoughts been
    266           since then?
    267   Rob     (1.5) U:m regret (0.2) ruined my life (0.5)
    268           my selfishness (.) all for myself I think
    269           (.) I never really thought about it until
    270           like (.) I come here (.) you think about
    271           yourself (.) don't you? (.) well I did=
    272   Rob     =Um
```

```
273  Esther  (1.0) Okay (.) so you're saying that (.) it
274          was very much selfish (.) it was about your
275          needs being met=
276  Rob     =Um=
277  Esther  =and that's what made you go along with it
278          (.) but then since then (.) so what have
279          your (.) what have your thoughts and
280          feelings been since then? (.) You've said
281          regret (0.2) has it has it made you (.) how
282          has it made you think differently?
283  Rob     (0.5) I don't [[laughs]] I don't do that
284          sort of stuff anymore
285  Esther  (.) Right (.) why?
286  Rob     (0.2) Same again selfish reasons cos uh::m
287          (0.5) I'd end up (.) ruining my life and
288          that innit so I don't want to (.) do
289          something and go back to jail again=
290  Esther  =°Um hum° (0.2) are there any other reasons
291          why you wouldn't do it? (0.2) I mean you
292          know you're being very honest in saying yes
293          It's about me (.) I don't want to go back
294          to prison again (.) I don't want my life=
295  Rob     =Well it's not right is it? You know what I
296          mean (.) I don't want my kids seeing (.)
297          seeing me be like that=
298  Esther  =°Yes° (0.5) and how do you think your
299          family have been affected by what you have
300          done?
301  Rob     (0.2) Uhm (0.5) Uhm (.) majorly (0.2) I
302          don't live with them or nothing do I? (0.5)
303          uhm (2.5) I don't know what to say about
304          that (.) uh::m
```

Esther asked Rob, 'what have your thoughts been since then?' (line 265-266). Rob responded by expressing his regret, stating that his 'selfishness' ruined his life (line 267-268). Esther selected aspects of what Rob had said and used it to challenge him, preventing any damaging interpretations (Thompson, 2017). Esther said, 'it was very much selfish (.) it was about your needs being met' (lines 273-275) before she initiated a new question which started with the word 'but' (line 278) demonstrating dissatisfaction with his answer and a request for more information. Esther initially said, 'has it made you' and then self-repaired to 'how has it made you think differently?' This very subtle change in lexical choice from 'has' to 'how' demonstrated a shift in epistemic stance. When Esther initially asked, 'has it made you think differently?' this demonstrated a less knowledgeable (K-) position presented in an unknowing format. Esther then changed this to 'how has it made you think differently?' which demonstrated a shift to a more knowledgeable (K+) position because 'how' made this question a knowing format, presupposing that Rob saw things differently, placing an expectation on him to respond in a way that demonstrated this. Rob answered this question in a similar way, concluding that the reasons he did not commit crime anymore was because he did not want to 'go back to jail' (line 289).

Esther asked, 'are there any other reasons?' (line 290) followed by a declarative statement, 'you're being very honest in saying yes it's about me' (lines 292-293). The way that this turn was constructed set Rob up to respond in a certain way, a way that provided an answer to 'any' other reasons that did not relate to him. The pursuit to secure an adequate response was driven by the institutional objective that involved helping Rob consider the impact his actions had on others. Rob acknowledged the impact this had on his family which was replied to by Esther providing a softly spoken acknowledgement token 'yes' (line 298) confirming her alignment with his answer before asking him to expand further. Esther asked Rob several questions in pursuit of an adequate response. Rob's answers were scrutinised, leading to additional questions being asked in the form of declarative statements to help him answer in a particular way. The pauses and hesitations in Rob's answers showed his difficulty in responding to the sensitive nature of the questions and being continually placed in a position to answer.

The following extract involved the facilitator encouraging the offender to consider the impact of his actions. The offender struggled to answer the questions which resulted in the facilitator

emphasising the impact on the victim by saying, 'it's not going to be a nice position to be put in'.

```
Example 24 - Meeting 1: 276-309
    276   Esther  So how do you think (.) how do you think a
    277           woman (.) a pregnant woman (.) might fee:l
    278           after (.) you know (.) ok we have got the
    279           initial reaction (.) how do you think
    280           someone might feel in the following days
    281           and weeks?=
    282   Steven  [[sighs]] °I couldn't bear to think° (.) °I
    283           couldn't bear to think°
    284   Esther  (0.5) Well I am asking you to
    285   Steven  (0.2) What how she would of felt?=
    286   Esther  =↑Yeah
    287   Steven  [[sighs]] (1.2) °I don't know° (0.5) °I
    288           don't know°=
    289   Esther  =Ok (.) alright (.) I mean the fact that
    290           you say I can't bear to think (.) it's
    291           indicative that it's not going to be good
    292           is it?=
    293   Steven  =No=
    294   Esther  =⌈It's not going to be a nice position⌉ to
    295   Steven   ⌊Definitely not no (.) no definitely ⌋not
    296   Esther  be put in (.) Ok=
    297   Steven  =Maybe she would have gone for tests at
    298           Doctors or whatever (.) cos (.) cos of the
    299           °actions (.) do you know what I mean what I
    300           mean?°=
    301   Esther  =Why might she have done that sorry=
    302   Steven  =°Just° (.) well she knows that I am a drug
    303           user (.) so she might of thought well I am
    304           going to go for tests and (.) medical (.)
    305           do you know what I mean? (.) just it could
    306           of affected her that way (.) °I don't
```

```
307            ⌈kn⌉ow° (.)
308  Esther  ⌊Ok⌋ (.) Ok (.) alright (.) well thank you
309            Steven for that
```

The specialised turn-taking system examined in the other meetings was also apparent in Meeting One. Esther asked the questions, placing Steven in a position to answer them. Steven's answers were marked with hesitations reflected in pauses (lines 285, 287), sighs (lines 282, 287) and a discourse marker (line 282) which did not answer the question. Steven was placed in a position to answer the same question three times (line 282, 285, 287) which he failed to do. Esther did not show alignment with these turns by providing continuers. Instead, she communicated that Steven's responses were noticeably wrong answers (Komter, 2012) demonstrated in a firmly spoken latched acknowledgement token, 'ok' (line 229) before she moved on and answered the question on Steven's behalf. Esther did this by providing a declarative statement, 'I mean the fact that you say I can't bear to think (.) it's indicative that it's not going to be good is it?' (line 290-292) which invited him to agree, which he did with a latched turn (line 293) and later with a cooperative overlap (line 295). This declarative statement demonstrated dissatisfaction with Steven's previous responses, showing that his talk was under scrutiny. The way that Esther answered the question on Steven's behalf demonstrated her power to construct knowledge in the meeting. Esther challenged Steven in a way that asserted an interpretive framework, preventing what was being said from being seen in a certain way (Thompson, 2017).

Esther provided an acknowledgement token, 'ok' (line 296), that attempted to change topic but during that time, Steven latched a turn onto this that referred to Deb potentially going to the doctors for tests (line 297), which was a self-initiated repair. Repairs are initiated when a speaker or listener recognises that something wrong has been uttered. Self-initiated repairs involve the speaker of an utterance attempting to make a repair without prompting from another participant. Steven recognised that not answering the questions in the previous turns represented trouble in the conversation, therefore his turn attempted to repair that by providing the answer (line 297). When words are repeated in a turn this can sometimes demonstrate self-repair. Steven said, 'cos' (line 298) on two occasions which showed that he was trying to produce a discourse that was free from mistakes (Hieke, 1981). Esther responded, 'why might she have done that sorry?' (line 301) and 'sorry' implied the trouble of not understanding belonged to her, placing her back in her pre-allocated questioner role.

This prompted Steven to provide a 'repair after next turn' (Schegloff, 1992, referred to in Example 10) that promoted understanding of what he meant (lines 229-303) and answered the question that he had previously avoided. This section concluded with Esther thanking Steven (line 308), aligning with his answer. Esther maintained procedural control over the interaction, asking questions despite Steven not answering and deciding when to end a topic and when to begin a new one.

When offenders were asked to consider the impact, their actions had on others, this sensitive topic resulted in difficulties arising (Example 24). When difficulties did arise, trouble was negotiated and the participants collaboratively worked together to co-construct a restorative justice narrative, one that considered the impact that actions had on others. Example 24 showed the facilitator and offender working together to repair the trouble source of the unanswered question resulting in the pre-allocated roles being reaffirmed and the offender considering the impact that his actions had on others.

5.5 Conclusion

This section showed the facilitator and offender in each meeting co-constructing the account with varying degrees of agreement between the two. The construction of the offender's account was a joint accomplishment. This was achieved through the basic question-answer framework, followed by demonstrations of alignment and requests for further information from the offender. The questions that reflected unknowing formats invited offenders to provide elaborate responses to a given topic. The offenders' talk was heavily scrutinised, and Esther used her epistemic status to emphasise and challenge certain aspects of the account, constructed in the form of knowing formatted questions that invited agreement from offenders. This power to construct knowledge contributed to the achievement of institutional objectives because it emphasised certain points and created 'an official interpretative framework' that was 'used to make sense of institutional facts' (Thompson, 2017, p.5). These institutional facts attempted to change the outlook of offenders towards understanding the impact of their behaviour, which was revealed as an aim of this scheme. The next chapter will examine the victim account phase of the meeting.

Chapter 6

The Victim Account

6.1 Introduction

Chapter Five examined the offender account, demonstrating how offenders were led to an understanding of the impact that their actions had on others. The victim account phase involved facilitators asking victims questions about the impact the offence had on them whilst offenders were pre-allocated to listen, hopefully gaining a fuller understanding of impact by hearing directly from the person harmed. Fruitful analysis of the victims' accounts depends in part on comparisons with the offenders' accounts. This chapter will therefore bring in comparisons with the previous chapter. To begin with, a table will be included that shows the number and types of questions asked, the number of continuers provided (and by who) in the victim and offender account of each meeting. Next to be examined will be the use of knowing formatted questions in the victim account, comparing this to the use of these questions in the offender account. There was a scripted question asked about the hardest part of the offence for victims and this will be examined in each meeting, identifying any similarities and differences between the talk in the victims' and offenders' accounts.

6.2 Questions and Continuers in the Offender and Victim Account

A question is a sentence that elicits information. Questions can be constructed in 'unknowing' and 'knowing formats', placing constraints on recipients. Unknowing formats were coded as questions that invited an open response and promoted sequence expansion, demonstrating that the person asking the question held a less knowledgeable position, requiring information from the recipient.

The following extract was taken from the victim's account in Meeting One and demonstrates the use of an unknowing formatted question asked by the facilitator, 'how do you actually fee:l now?'

```
Example 25 - Meeting One: 370-379
    370   Anne    So now it is nine years on so how do you
    371           actually fee:l now?
    372   Deb     (0.2) I'm you know I am ok (.) it's fine (.)
    373           it's kinda like happened such a long time
    374           ago=
    375   Anne    =Yeah=
    376   Deb     =and it's not (.) been something that has
    377           impacted massively on (.) my (.) life (.)
    378           it did make me more wary for a few months=
    379   Anne    =Yeah
```

Anne asked Deb 'how do you actually fee:l now?' (lines 370-371), which was a request for unknown information, inviting Deb to provide an elaborate response.

While coding unknowing formatted questions was a straightforward and easy process, the difficulty occurred when coding knowing formatted questions in the victim and offender account. Knowing formatted questions are declarative statements and can only be identified by examining the recipient's response to them. If recipients responded to declarative statements with an answer, this confirmed that they interpreted the statement as a question. Knowing formatted questions were coded as statements that invited confirmation from the recipient, demonstrating a sense of certainty in the knowledge that the person asking held and the power to construct that knowledge. Knowing formatted questions could consist of extended turns responded to with several continuers and when the turn constructional unit (TCU) ended, and the transition relevance place (TRP) became available this would be coded as one question. On occasions when unknowing and knowing formatted questions were asked together, the question that was counted was the latter part of the turn because this was the question that recipients answered.

The following extract was taken from the offender account of Meeting One and demonstrates a knowing formatted question being asked in the same turn as an unknowing formatted question. Esther asked a knowing formatted question that invited Steven to confirm 'you regret doing it'.

```
Example 26 - Meeting 1: 242-245
    242  Esther  Ok (.) ok (.) how do you feel now then?
    243          so your thoughts are that you regret
    244          doing it=
    245  Steven  =Yeah
```

Esther initially asked Steven an unknowing formatted question, 'how do you feel now then?' (line 242) and then continued to provide a declarative statement, 'so your thoughts are that you regret doing it' (lines 242-244) which answered the question and invited Steven to agree which he did (line 244). In this instance, this question would have been coded as one knowing formatted question because Steven's provided an answer to it.

Continuers were coded as words that occurred during an extended unit of talk indicating that the speaker should continue talking (Schegloff, 1982), promoting sequence expansion. The coded continuers mostly consisted of singly spoken words including, 'yeah', 'um hum', 'ok', and 'right'. There were occasions where some of these words were spoken multiple times, for instance, 'yeah, yeah, yeah' and these instances were counted as one continuer. Acknowledgement tokens were not counted because they mostly occurred before a question was asked and questions had been counted so this did not reveal anything further.

Bergmann (1992) criticised the counting of specific social acts – a practice which he termed 'Balesianization' – because this loses the finer details of the interaction captured by the method of conversation analysis. However, these counts were only a start to the analysis and conversation analysis was applied to data following this. Counting and classifying unknowing formatted questions and continuers was a straightforward and easy process. However, difficulties arose when classifying knowing formatted questions because they consisted of statements that had to be interpreted by recipients as questions to be counted as such. Nevertheless, despite these difficulties, counting questions and continuers enabled a comparison to be made between the offenders' and victims' accounts, presenting findings in a straightforward way.

Table 1 provides an overview of the number of questions asked in the offender and victim account phase of each meeting, identifying how many questions were in unknowing and knowing formats. Table 1 also shows the number of continuers apparent in each phase and who provided them.

Table 1: Types of Questions Asked in the Offender and Victim Account				
	Meeting 1	**Meeting 2**	**Meeting 4**	**Meeting 5**
Number of facilitator's questions directed to the **offender**	29	41	34	30
• Unknowing formats	19 (66%)	24 (59%)	16 (47%)	27 (90%)
• Knowing formats	10	17	19	3
Number of continuers provided by the facilitator directed to the **offender**	11	11	21	4
Number of continuers provided by the offender and directed at the **facilitator**	4	3	16	6
Number of facilitator's questions directed to the **victim**	5	14	5	12
• Unknowing formats	5 (100%)	9 (64%)	5 (100%)	10 (83%)
• Knowing formats	0	5	0	2
Number of continuers provided by the facilitator directed to the **victim**	14	3	0	13
Number of continuers provided by the offender directed to the **victim**	0	0	23	7

Table 1 shows that the number of questions put to the victim was considerably lower than the number of questions put to the offender. Additionally, in all meetings, both offenders and victims were asked a higher number of unknowing formatted questions. Unknowing formatted questions provided an opportunity for open responses, but they were topic-specific and prevented offenders and victims from initiating a new turn, therefore constraining

participation rights. Victims were asked a higher percentage of unknowing formatted questions out of the total number of questions asked in comparison to offenders. There were less conversational restrictions placed on victims who responded in extended turns, demonstrating their ability to articulate information whilst being awarded the opportunity to express themselves. Knowing formatted questions were more apparent in the offender account, restricting offenders' talk by reducing their responses and promoting sequence closure. Thus, the narrative of offenders was placed under closer, more exacting scrutiny than victims. Offenders were expected to reveal more through being asked a higher number of questions in a more restrictive way, preventing them from having their say.

The number of continuers provided by facilitators and directed at offenders in the offender account were smaller than the number of questions asked, showing the back-and-forth question-answer framework that was apparent, reducing the turn size of offenders' talk. The answers provided by offenders were mostly short, except in Meeting Four where Brian (the offender) responded in extended turns which explains the higher number of continuers in the offender account of this meeting. The continuers in the offender account were provided by facilitators and directed at offenders and consisted of words like, 'ok', 'right', 'um hum' and 'yeah'. Offenders directed continuers at facilitators during the offender account. These continuers mostly consisted of the agreement continuer 'yeah' with the occasional 'um' and were provided during times when facilitators emphasised or challenged part of the offenders' accounts.

The number of continuers provided in the victim account were higher than the number of questions asked, expect in Meeting Two where the opposite occurred. Victims were asked to reveal less but were given more opportunity to express themselves with continuers supporting the progression of their talk. In Meeting Two, continuers were less apparent, but the facilitator remained silent, supporting, and aligning with the progression of the victim's account. In Meetings One and Two, all continuers directed at victims were provided by facilitators; in Meeting Four, all the continuers directed at the victim were provided by the offender; and in Meeting Five, continuers were provided by both the offender and facilitator. The facilitator provided only a small number of continuers in Meeting Five which occurred at a particular time in the interaction and will be examined later in the chapter. The types of continuers spoken in the victim account mostly consisted of words like, 'yeah' and 'um hum'.

There were less expectations and restrictions placed on victims in comparison to offenders. Victims, therefore, arguably had a legitimacy that offenders did not. During the victim account, victims directed no continuers at facilitators or offenders; instead all continuers were directed at them, demonstrating that they were able to formulate their own accounts which were responded to by the other participants. Although offenders were asked more questions which could be taken to mean that they had more opportunity to speak, fewer continuers promoted sequence closure, restricting their answers to shorter turns. Offenders' talk was scrutinised more heavily, resulting in facilitators leading in the co-construction of their narrative, engaging in persuasive redefinition that made the talk fit for the restorative justice context. This was demonstrated by the continuers that offenders directed at facilitators during the offender account. The facilitators could be seen as a symbolic way of restoring the balance lost when the crime was committed, making the offender answerable and empowering the victim. This conjecture will be the basis for further evaluating the claims of Jacobsson *et al.* (2012) regarding the position that victims hold in the interaction over offenders.

I argue that the offenders' and victims' accounts seek to achieve the same objective, which is to help offenders acknowledge responsibility and gain a full understanding of the impact of their actions. To achieve this objective, offenders were carefully questioned and challenged, and victims were placed in a position to share their account for pre-allocated listening offenders. The pre-allocated listening role of victims was less significant in the offender account, demonstrated by continuers being provided by the facilitators. The significance of the pre-allocated role in the victim account changed, demonstrated by the continuers being provided by offenders who took an active part in their listening position.

6.3 Emphasising Impact Through Knowing Formatted Questions

The victim account phase focused on the impact of the offence on the victims and their families. Victims were given the opportunity to have their say, and this information was orientated to pre-allocated listening offenders, promoting a full understanding of the impact on others by being told directly by the person harmed. As Table 1 shows, the victim account included a lower number of knowing formatted questions than the offender account, and this section will start by examining instances of knowing formatted questions that were asked

during the victims' accounts, comparing them to the knowing formatted questions asked during the offenders' accounts.

The following extract involved the facilitator asking the victim details about the day the offence happened asserting, 'you were trapped inside'.

```
Example 27 - Meeting 2: 646-654
    646   Sarah   Thank you Imran (.) Can I just (.) take you
    647           back to when you were in the (.) in the bus
    648           itself? (.) so when you were in the bus you
    649           were trapped inside (.) weren't you?
    650   Imran   =Yeah=
    651   Sarah   =And the fire service had to come and cut
    652           you out?=
    653   Imran   =Yeah=
    654   Sarah   =How were you feeling at the time?
```

Prior to the transcript above, Imran explained that after the car hit the bus he was trapped inside, resulting in the fire service having to come and get him out. Sarah used her pre-allocated epistemic status to emphasise this information in the form of two knowing formatted questions (lines 648-649, 651-652) that invited confirmation from Imran. The lexical choice in Sarah's statements reflected her epistemic stance, she asserted, 'you were trapped inside' (lines 648-649) demonstrating the knowledge she held from what Imran had previously said. Sarah's pre-allocated role as questioner placed her in a position to select information relevant to the institutional agenda, creating an interpretative framework (Thompson, 2017) that promoted understanding of impact for the purpose of the pre-allocated listening offender. These knowing formatted questions formed a pre-sequence that involved preparatory work being carried out (ten Have, 2007), building a picture of the incident before asking the question that formed the core sequence, 'how were you feeling at the time?' (line 654). This question was answered by Imran (beyond the extract above) in an extended turn that talked about the impact the incident had on his physical health and his worries about not being able to work and support his family. This extended turn was supported by Sarah who remained silent until Imran's talk came to a natural end, resulting in her then asking another question.

Example 27 has shown that the victim's talk was less scrutinised than the talk of offenders. Sarah was emphasising information from Imran's experience and inviting him to agree. Imran agreed to both knowing formatted questions with latched continuers (lines 650 & 653) demonstrating his cooperation and alignment with what was being said. When Imran provided an extended answer (beyond the extract above), Sarah supported the progression of his talk by remaining silent and allowing Imran to express without interruption. This stretch of talk was marked with no hesitations or difficulties and the questions asked by Sarah were statements of what happened as opposed to the challenges found in the offenders account. In the offenders' accounts, when knowing formatted questions occurred, they resulted in instances of disagreement (Example 18), demonstrating the offender's interpretation of the knowing formatted question as a challenge. The objective of the victim account was to convey information, whereas the objective of the offender account was to achieve acceptance of responsibility and promote an understanding of impact through persuasive re-narration which involved the talk being more scrutinised.

6.4 The Hardest Part – Unknowing Formatted Questions

During the victims' accounts, a question regarding the 'hardest part' was asked, giving victims an opportunity to provide an account of their thoughts and feelings. This section will examine how this question was answered by the participants in the meeting. Meetings One and Two will be examined initially where a second facilitator was present in each, Anne in Meeting One and Sarah in Meeting Two.

The following extracts involved facilitators asking victims what the hardest part of dealing with the offence was for them and their answers could respectively be summarised as, 'I was pregnant' and 'the pain'.

```
Example 28 – Meeting 1: 390-400
    390  Anne   Is there anything in particular that's been
    391         the hard::est thing for you (.) to kind of
    392         deal with?
    393  Deb    (0.5) Uh:::m (0.2) it's just the fact I was
    394         pregnant=
    395  Anne   =Yeah
    396  Deb    (0.2) If I hadn't (.) I mean it still would
```

```
397          have bothered me but (.) the fact that I was

398          pregnant and obviously I had (.) my son to

399          think about (0.2) that (.) that's what

400          really got to me
```

Example 29 - Meeting 2: 724-739

```
724  Sarah   °Ok° (.) What's been (.) What's been the

725          hardest thing for yo::u (0.2) to deal with

726          from the offence (.) from the day it

727          happened?

728  Imran   (0.2) The hardest thing for me just (.) uh

729          (.) when I'm driving no:w (.)when I'm

730          driving the bus u:h after a couple of (.) I

731          mean (.) after ten minutes or twenty minutes

732          (.) I start to get pain from my (.) my

733          shoulders and neck (0.5) u::h so I have to

734          use painkillers (0.2) always (.) in my back

735          (.) plenty of painkillers (.) uh (.) I:: I

736          used t::o (0.2) to (0.2) use co-codamol

737          (0.2) but they ate at my stomach (.) so

738          I'm just using paracetamol at the moment=

739  Sarah   =°Ok° (0.5) So…
```

Unknowing formatted questions were asked at the start of each segment, inviting victims to respond in an open and elaborate way. The answers given by victims were accepted as adequate by facilitators, demonstrated in latched continuers and acknowledgment tokens. In Example 28, Anne's continuer (line 395) reflected agreement with what Deb was saying, supporting the progression of her talk. In Example 29, Sarah waited until Imran's turn constructional unit had ended before providing an acknowledgement token and asking another question (line 739) promoting the 'orderly transfer of speakership' (Atkinson, 1982, p.104). The answer given was a 'joint construction' because Sarah withheld the question, permitting the answer to develop until it had been completed (Clayman & Heritage, 2002, p.114). Sarah only provided a limited number of continuers in the victim account. Withholding continuers arguably demonstrated a refusal to take on the role of primary

recipient (Clayman & Heritage, 2002, p.121), highlighting the pre-allocated listening offender as the primary recipient.

The pre-allocated roles of the participants were maintained by facilitators asking questions, victims answering them and offenders listening. There were less restrictions placed on victims in comparison to offenders. Examples 28 and 29 have shown that victims were allocated turn space to respond to the questions asked. The answers given were supported and encouraged with agreements, continuers or silence until the talk came to a natural end. Victims were awarded the opportunity to create their own narrative and there was less evidence found where victims were engaged in the persuasive redefinition of their narrative like offenders were. Offenders were moved through turns at talk more quickly and their answers were assessed by facilitators who determined their adequacy resulting in restricted turns and an expectation to reveal more.

The following extracts involved victims identifying the hardest part of the offence as 'carrying it (.) in my head' and 'inconvenience'. The identifiable difference in these extracts was that turns were directed at offenders and responded to by offenders.

```
Example 30 – Meeting 4: 651-674
    651   Esther  Can I ask what's been the harde::st part of
    652           all of this for you, Simon?
    653   Simon   (0.5) U::m (0.5) I think (.) the hardest
    654           part has been carrying it (.) in my head
    655           (0.2) and that's why I asked Esther (.)
    656           because I want to (.) you know (.) I don't
    657           wanna (0.2) create any negativity this
    658           afternoon with you=
    659   Brian   =Mmm yeah yeah
    660   Simon   (0.2) I've always been upfront with people=
    661   Brian   =Yeah=
    662   Simon   =you know (.) if there's something about me
    663           that you don't like or if you think there's
    664           something I've said (.) talk to me about it
    665           (0.2) you know (.) it's the healthy thing to
    666           do (.) it's the more positive thing to do is
```

```
667            talk to me about it (.) I'm more than happy
668            to be receptive to any feedback (.)
669            personally (.) and professionally I do that
670            (.) I do ask people to do that (.0 u:h (0.5)
671            but then not having the opportunity with you
672            (.) and being just carrying it (.) that's
673            been (.) that's been quite (0.5) very
674            exhausting
```

Example 31 – Meeting 5: 425-437
```
425   Esther  (0.5) °Right° (.) what was the worst thing
426           about it though? (1.0) what was the hardest
427           thing for you to cope with in all of it?
428   Pete    (0.5) Inconvenience (.) I mean I don't get
429           upset about stuff really (.) I was very
430           angry initially=
431   Rob     =Yeah yeah=
432   Pete    =Uh::m=
433   Esther  =What did you do with ⌜that though?⌝
434   Pete                          ⌞I don't know⌟ what
435           you found in the back of the car but I had
436           a pair of boxing gloves ⌜[[laughs]]⌝
437   Rob                             ⌞[[laughs]]⌟
```

The examples both opened with unknowing formatted questions. In Example 30, Simon directed his response at Brian, 'I want you to (.) know' (line 656) and Brian responded with two latched agreement continuers (lines 659, 661) supporting the progression of Simon's account in a cooperative way that demonstrated active listening. Simon concluded by telling Brian to 'talk' to him if he had a problem because it was the 'healthy thing to do' (line 665-666). The epistemic stance of this turn was demonstrated in the advisory nature of the talk that was responded to by Brian with continuers throughout this phase of the meeting. In Example 31, Pete answered the question (line 428-430) which was acknowledged by Rob with a latched continuer (line 431) suggesting the turn was directed at him. Esther attempted to ask another question (line 433) which was interrupted with a joke from Pete that was

directed at Rob, 'I don't know what you found in the back of the car but I had a pair of boxing gloves' (lines 434-436), resulting in cooperatively overlapped laughing between them. Pete's self-initiated interruption stepped outside of his pre-allocated role and demonstrated equal participation rights.

The continuers provided by Brian and Rob were 'signals of continued attention' (Fries, 1952, p.49) and demonstrated an 'overwhelming compliance' (Drew & Heritage, 1992, p.27) with the process because they took a conspicuously active role as pre-allocated listeners. The continuers provided by offenders demonstrated their 'primary listener role' during that 'particular moment in the talk' (Gardner, 1998, p.206). These continuers expressed their understanding and were 'an example par excellence of co-construction in action' (Gardner, 1998, p.206). The offender account was co-constructed between offenders and facilitators whereas the victim account (Examples 28 & 29) was co-constructed by all parties. Although the talk was constructed differently in the offender and victim account, the objective remained the same – to promote an understanding of impact to offenders.

Facilitators held power over the interaction, demonstrated by their position to ask questions and challenge answers given. Victims held more power over the interaction than offenders, demonstrated when they directed turns at the offender (Examples 28 & 29), gave advice (Example 29) and stepped outside of the specialised turn-taking procedures (Example 28). The level of participation of victims (Example 28 & 29) demonstrated they held rights to articulate knowledge based on their position. The epistemic status of victims was based on their being victims of crime, placing them in a position to 'assert' knowledge claims (Heritage, 2013, p.370) that were jointly recognised by those involved (Heritage, 2013). The facilitator remained silent (Example 28) and did not challenge the interruption (Example 29) and offenders responded cooperatively. These findings confirmed those reported by Jacobsson e*t al.* (2012) that victims hold more power over offenders in some restorative justice schemes. This section has shown that victims were given more opportunity to express themselves, demonstrating the importance of the overhearing audience which was the pre-allocated listening offenders. The next section will examine some identifiable differences that were found in Meeting Five, where the victim minimised the impact of the offence.

6.5 Eliciting Impact

In Meeting Five, following the question about the hardest part of dealing with the incident, a larger number of questions were put to the victim in comparison to the other meetings.

The following extract involved the facilitator pursuing an adequate response from the victim resembling talk that was found in the offender's account. The facilitator challenged the victim by saying, 'I know it's only a car'.

```
Example 32 – Meeting 5: 440-476
    440    Esther  What (.) what did you do with that anger
    441            though? (.) because we've had a few
    442            discussions now about it and you've (.) you
    443            present as somebody who (.) you know (.)
    444            you take things in your stride (.) you're
    445            someone who's one of life's copers (.) but
    446            (.) nonetheless (.) there's still a lot of
    447            emotions going on there (.) where do (.)
    448            where do you go with those emotions? (.) do
    449            you swallow them and bottle them up? (.)
    450            keep them in check or do you=
    451    Pete    =No that's not it (.) I mean the issue
    452            would've been actually (.) at (.) the (.)
    453            time=
    454    Esther  =Um=
    455    Pete    =if I'd come across Rob going into my
    456            locker (.) I'd have been very angry then
    457            (.) after a bit you rationalise don't you?
    458            (.) it's a nice car=
    459    Esther  =Yeah=
    460    Pete    =I've still got it=
    461    Rob     =I remember it's the big Mercedes in it?=
    462    Pete    =That's right, yes (.) black (.) obsidian
    463            black
    464    Esther  (0.2) And was the car (.) did the car have
    465            any special meaning for you?
```

```
466   Pete    (0.5) ◦It's only a car◦=
467   Esther  =I know it's only a car=
468   Pete    =No I (.) I ra (1.0) oh dear this is going
469           to sound terrible (.) I rather fancied
470           myself in a rather ⌐nice Mercedes⌐ so=
471   Rob                        ∟ [[laughs]]    ⌋
472   Esther  =Yeah=
473   Pete    =once I was driving a little Nissan or
474           whatever it was I felt I'd lost a bit of
475           something (.) but it's only a car=
476   Esther  =Yeah yeah=
```

Example 32 occurred directly after Example 31 where Pete minimised the impact of the offence saying, 'I don't get upset about this stuff really (.) I was angry initially' (lines 429-430). Esther used her pre-allocated position to select the substance of the previous turn (Thompson, 2017), emphasising the point that Simon made about anger because this was the most serious reference to harm, 'what did you do with that anger though?' (line 440-441). Esther was attempting to pursue an adequate response that included Pete acknowledging the impact of the offence in a more serious way. Pete explained that he was angry at the time but had since rationalised what happened (lines 451-457).

Pete and Rob engaged in a collaborate effort to co-construct the narrative as it related to the stolen car (lines 460-463), which included Pete talking about it being a nice car (line 458). Esther again used her pre-allocated position to emphasise the substance of what had been said, asking 'did the car have any special meaning for you?' (line 464-465). Pete provided a softly spoken answer after a 0.5 second pause, stating, '◦it's only a car◦' (line 466) which was followed by a latched response from Esther asserting, 'I know it's only a car' (line 467) demonstrating dissatisfaction with his answer. Pete acknowledged Esther's epistemic status and identified this as a trouble source, and responded with a self-initiated repair, meeting the expectations of this part of the interaction by identifying the importance of the car and its meaning to him (lines 468-477). Esther aligned with Pete's repair by providing two latched continuers (lines 472 & 476).

Example 31 was comparatively different to Examples 28, 29 and 30 where victims' answers to the question about the hardest part were accepted as adequate and only one question

followed. In Meeting Five, following the question about the hardest part, Esther asked a further nine questions, indicating that Pete's original answer (Example 31) was not accepted as adequate and therefore further questions were used to pursue an adequate response, showing that victims were still expected to say certain things. Pete minimised the impact of the offence and because the objective at that point was to promote an understanding of the impact of the car theft, his reply did not align with this.

Interestingly, Example 32 resembled talk found in the offender account phase. Firstly, Esther persistently pursued Pete to provide an adequate response that did not minimise the impact of the crime, demonstrating that his talk was scrutinised. Secondly, Esther used her pre-allocated position to highlight the substance of Pete's turns, persuasively re-narrating his account and inviting him to agree. And thirdly, Esther scrutinised Pete's answer, '∘it's only a car∘' (line 466) by saying, 'I know it is only a car' (line 465) resulting in a self-initiated repair that answered the question in a way that met her expectations. Example 32 was the only talk found in the victims' accounts that resembled talk found in the offenders' accounts. The victims' talk was scrutinised less; however, Example 32 showed that this changed when what was said did not align with the objectives of the meeting, resulting in the facilitator utilising her pre-allocated position to lead in the co-construction of a narrative that was fit for the restorative justice context.

6.6 Conclusion

According to advocates, restorative justice meetings should provide an arena where the stories of the participants can be heard, particularly in the victim account phase because this process is an important part of victim restoration (Braithwaite, 1996; Doolin, 2007; Zehr, 2014). Across the four meetings, offenders were asked 86 unknowing formatted questions whilst victims were asked a total of 29. Despite offenders being asked more questions, the talk of victims was scrutinised less, resulting in extended turns that were supported and accepted as adequate. Victims were given more opportunity to have their say, demonstrating that they held more power in the interaction than offenders. The accounts of offenders were scrutinised more and persuasively re-narrated. The victim account involved information being orientated for the benefit of the pre-allocated listening offenders. Victims were expected to say certain things that aligned with the restorative justice agenda, and this was demonstrated when the victim in Meeting Five (Example 32) attempted to minimise the impact of the offence. The facilitator reacted to this by pursuing an adequate response that

challenged the minimisation and asserted a new interpretive framework (Thompson, 2017) for the benefit of the pre-allocated listening offender. For offenders, restoration involved being made aware of the harm caused by the offence and the consequence of their actions. Victims played an important part in helping offenders because hearing directly from the person harmed promoted a fuller understanding of the impact of their behaviour, placing them in a position to take steps to make things right (Zehr, 2014) in the reparation phase.

Chapter 7

The Reparation Phase

7.1 Introduction

The victim account was concluded by facilitators thanking victims for their contribution. The reparation phase was initiated by facilitators asking offenders if they had anything to say after hearing directly from victims. This question was interpreted by offenders as an invitation to apologise, resulting in apologies being offered. The 'core sequence' of restorative justice arguably involves the ritual of apology-forgiveness (Retzinger & Scheff, 1996) and this process falls into the category of a 'remedial interchange' (Goffman, 1971; Owen, 1983), and both will be explained. The way that apologies and responses occur in institutional settings differs from the way that they are approached in naturally occurring talk and these differences will be addressed before examining the data. Noting that core sequences are not always achieved, Hayes (2006) called for further research to be conducted that focused on the dialogue of victims and offenders to promote an understanding of why this might be.

This chapter will start by examining the questions asked and continuers provided in the reparation phase, identifying key differences to the offender and victim account phases. It will also examine the invitation to apologise and how offenders responded. Offenders responded differently, resulting in undirected, directed, and self-initiated apologies and each will be examined, identifying whether responses to these were provided. When responses to apologies did not occur directly, opportunities for acknowledgement happened later in the meeting and these instances will be examined to assess whether apologies were accepted. In addition to the remedial interchange, this chapter will examine instances where talk occurred that stepped outside the confines of the specialised turn-taking procedures, demonstrating the offender and victim working together to achieve a particular action. These instances will be referred to as 'conciliatory talk' because they demonstrated a shift in the victim-offender relationship, highlighting the impact the meeting had on the participants.

7.2 Questions and Continuers in the Reparation Phase

Table 2 shows the number of questions asked, and the number of continuers provided by each participant in the reparation phase and who they were directed at. It does not include knowing and unknowing formatted questions because when counted, findings revealed that the number of knowing formatted questions asked were small. In Meeting One, only two knowing formatted questions were asked, one by the facilitator that was directed at the offender and one by the offender that was directed at the victim. There were no knowing formatted questions asked in Meetings Two and Four. In Meeting Five, ten knowing formatted questions were asked, three by the facilitator, two directed at the offender and one at the victim and seven asked by the victim and directed at the offender. The rest of the questions asked in all meetings were unknowing formatted questions. There was a total of 33 unknowing formatted questions asked in Meeting One, four in Meeting Two, twelve in Meeting Four and 26 in Meeting Five. Table 2 will indicate who asked these questions and who they were directed at. The questions asked in the reparation phase were asked by all participants which was different to the offenders' and victims' account where the facilitator asked all the questions.

When coding the questions in the reparation phase, the same approach was applied that was used for the offender and victim accounts. When the facilitator asked a question that was directed at the offender and victim at the same time, this was coded as one question for the offender and one question for the victim. Any instances where supporters were asked to engage or asked a question were not counted. When there was a second facilitator present, the questions asked, and continuers provided were counted under one facilitator.

Table 2: Number of Questions Asked and Continuers Provided in the Reparation Phase				
Number of questions asked	**Meeting 1**	**Meeting 2**	**Meeting 4**	**Meeting 5**
Facilitator directed to the **offender**	15	1	7	12
Facilitator directed to the **victim**	5	2	3	9
Victim directed to the **offender**	5	1	0	12
Victim directed to the **facilitator**	0	0	1	0
Offender directed to the **Facilitator**	3	0	1	2
Offender directed to the **Victim**	7	0	0	1
Number of continuers				
Facilitator directed to the **offender**	6	0	4	0
Facilitator directed to the **victim**	0	0	0	0
Victim directed to the **offender**	4	0	0	4
Victim directed to the **facilitator**	3	0	0	2
Offender directed to **facilitator**	11	0	16	4
Offender directed to **victim**	20	7	14	8

In the opening (see Example 15), the facilitator was ambivalent about the reparation phase of the meeting and talked about sitting back and letting the victim and offender respond to what each other had said and ask any questions that they wanted to. When it came to the reparation phase, Table 2 shows that the facilitator asked the most questions, directing most of them to the offender. However, a comparative difference to the offender and victim account phases

was that all participants asked questions in the reparation phase. Offenders asked the fewest questions except for Meeting One where the offender asked ten questions, seven of which were directed at the victim and three at the facilitator. In Meeting Two, the offender did not ask any questions; in Meeting Four, the offender asked one question which was directed at the facilitator and in Meeting Five the offender asked three questions, two of which were directed at the facilitator and one at the victim. When victims asked questions, they directed them at offenders, except for Meeting Four where one question was directed at the facilitator.

Offenders were asked the most questions, followed by victims, and facilitators were asked the least. This mirrored the offender and victim accounts, where offenders were asked more questions than victims. And it highlighted the epistemic status of facilitators who were placed in the position to ask questions, revealing nothing about themselves with victims and offenders were placed in a position to reveal more. When questions were directed at facilitators, they were based on clarifying information from the meeting rather than asking them to reveal something about themselves. Victims held more power over the interaction than offenders because they were asked to reveal less about themselves than offenders were.

Offenders provided most of the continuers demonstrating primary recipiency of the talk which was mostly directed at them. Facilitators and victims provided a small number of continuers, if any, in some cases. The fact that talk was mostly directed at offenders further confirmed that they held the least powerful position in the interaction. The level of participation of facilitators and victims demonstrated the rights they held to articulate knowledge based on their positions. When facilitators and victims directed their turns at offenders who responded with continuers, this showed that knowledge claims were jointly recognised by those involved (Heritage, 2013).

7.3 Apology-Forgiveness in Restorative Justice

The 'core sequence' of restorative justice involves the offender expressing 'genuine shame and remorse over his or her actions' and the victim working 'towards forgiving the offender for the trespass' (Retzinger & Scheff, 1996, p.316). Apologies and forgiveness are emerging standards for restorative justice, but these should not be encouraged (Braithwaite, 1996) because they are 'gifts' that only have meaning when they come from a 'genuine desire in the person' (Braithwaite, 2003, p.12). If expectations are imposed on the participants, this 'would destroy the moral power' of apology and forgiveness (Braithwaite, 2003, p.13). It is argued

that apologies are promoted by evoking certain emotions throughout the communication process (Harris *et al.*, 2004). After hearing the victim's story, the offender may feel empathetic, apologise and demonstrate remorse (Harris *et al.*, 2004). The process of reintegrative shaming involves acknowledging the behaviour as wrong but not the person (Braithwaite, 1989). Therefore, it is no surprise that an apology is the central part of the restorative justice process. Alternative findings suggest that apologies and responses to apologies were not linked to 'emotionally laden communication' (Shapland, 2016, p.103) in restorative justice. Instead, offenders were found to attend conferences wanting to apologise, and seeing the conference as an opportunity to do so. In some instances, the victim account 'clearly shocked the offender' leading to a 'more profuse apology' (Shapland, 2016, p.103). The word 'forgiveness' was rarely used; however, victims were found to smile, nod, shake the offender's hand, express appreciation for the apology and wish offenders well (Shapland, 2016) suggesting that forgiveness may not be demonstrated in the literal sense. The next section will examine the model of remedial interchange because apology-forgiveness are central to this process.

7.4 The Model of Remedial Interchanges

Goffman (1959) advanced the idea that when people are in the presence of others they present themselves in a certain way and one particular strategy used in the process of impression management is 'facework'. Face is 'defined as the positive value a person effectively claims for himself by the line others assume during a particular contact' (Goffman, 1967, p.5). We are all responsible for saving our own face and the face of others. When problems occur during social interaction, the ritual of 'remedial interchange' is a mechanism used to deal with social conflict, helping us to move forward and restore any face lost when the difficulty occurred (Goffman, 1971). Difficulties that arise are referred to as the 'virtual offence', perceived as the 'ugliest imaginable significance' (Goffman, 1971, p.139). For instance, a person may accidentally kick another person under the table and prior to remedial work being carried out it could be percieved in the worst possible way. Remedial work functions 'to change the meaning that otherwise might be given to an act, transforming what could be seen as offensive into what can be seen as acceptable' (Goffman, 1971, p.139).

Remedial work takes place through accounts and apologies. Accounts provide reasons for offending behaviour in the form of justifications and excuses, 'reducing its offensive potential' (Owen, 1983, p.93). Goffman's list of account types covers:

(i)   Pleas of excusable lack of forsight
(ii)   Excuses, i.e. pleas of reduced competence
(iii) Admissions of carelessness or ignorance of the consequences of the act (Goffman, 1967, p.112).

As an alternative to an account, an offender may offer an apology which is defined as:

> A gesture through which an individual splits himself into two parts, the part that is guilty of the offence and the part that disassociates itself from the delict and affirms a belief in the offended rule (Goffman, 1971, p.143).

Apologies demonstrate an admission that the offence was real, enable the offender to regain a sense of moral worth and restore the face that was lost when the wrong act occurred. An important part of the remedial interchange is the response to the account or apology which occurs in the form of 'acknowledgement' or 'acceptance' (Owen, 1983, p. 97). Goffman calls this latter technique 'minimisation' completing 'the full expansion of the basic remedial cycle', described as follows:

> Deed: A virtually offends B
> Remedy A: 'Can I use your phone to make a local call?'
> Relief B: 'Sure, go ahead.'
> Appreciation A: 'That's very good of you.'
> Minimization B: 'It's okay.' (Goffman, 1971, p.143).

In addition to relief, appreciation and minimisation, an expression of thanks can be offered in response to an account or apology when 'remedial work has been performed at some special 'cost' to the offender' (Owen, 1983, p.101). The next section will address the characteristics of apologies and responses in institutional settings.

7.5 Apologies and Responses in Institutional Settings

Naturally occurring apologies follow the adjacency pair format, apology-minimisation (Goffman, 1971; Levinson, 1983) or complaint-apology (Psathas, 1995). The first-pair part makes the second-pair part conditionally relevant, which means:

> Given the first, the second is expectable; upon its occurrence it can be seen to be a second item to the first; upon its non-occurrence it can be seen to be officially absent – all this provided by the occurrence of the first item (Schegloff, 1968, p.1083).

When the first-pair part is an apology the second-pair part of minimisation becomes conditionally relevant. When the first-pair part is a complaint the second-pair part of an apology becomes conditionally relevant. The way that apologies and responses to apologies

are organised in an institutional setting differs from the way that they are constructed in naturally occurring conversation because these settings involve formalised procedures, preventing this from happening. For example, Murphey (2014) recorded and transcribed 42 news interviews, focusing specifically on apologies and how they occurred. When apologies were made in the news interview, they came immediately after an utterance produced by the interviewer which was referred to as a 'trigger' which could be 'implicit, taking the form of a complaint, or explicit, invitations or requests for the interviewee to apologise' (Murphey, 2014, p.109). The invitation to apologise, opened 'up a slot' (Murphey, 2014, p.110), making the apology conditionally relevant. When apologies were provided, the recipients were the overhearing audience, resulting in no response being provided. In the reparation phase of the restorative justice meetings examined, facilitators invited offenders to apologise for the purpose of the overhearing victim. The next section will examine how these apologies were invited, produced, and responded to.

7.6 The Invitation to Apologise

In Meetings One, Four and Five, Esther asked offenders what their response was after hearing directly from the victim. This question could have resulted in different responses, but instead each offender said sorry. Therefore, this question was perceived by offenders as an invitation to apologise. This invitation occurred after the victim account and facilitators emphasised 'hearing from' victims, demonstrating the significance of the pre-allocated listening role of offenders in the previous phase. The information obtained from the victim account helped offenders gain a full understanding of the impact caused by hearing directly from the person harmed. The invitation initiated by the facilitator made an apology from offenders conditionally relevant. This section will start by examining the apologies that took place in Meetings One and Four because offenders responded by directing their apologies at the facilitator. These apologise will be referred to as 'misdirected' because they were not directed at victims. Meeting Five will then be examined because the offender directed his apology at the victim. The way that the apology occurred in Meeting Two differed in comparison to the other meetings and will therefore be examined in the final part of this section.

7.6.1 Misdirected Apologies

In Meetings One and Four, offenders did not direct their apologies at the person harmed by their actions.

The following extract showed the facilitator inviting the offender to apologise, who responded by saying, 'I am sorry'.

```
Example 33 - Meeting 1: 409-449
    409  Esther  ∘Ok thanks∘ (.) So (.) Steven you've hear:d
    410          directly from Deb (.) how she was affected
    411          is there anything (.) anything you'd like
    412          to say or any questions that you would like
    413          to ask?
    414  Steven  (0.8) ∘Na:::h∘ it's just that I am (.)
    415          sorry (.) for what I did
    416  Esther  (1.5) Is there anything about what Deb's
    417          said (.) that has surprised you or made you
    418          think differently o:r
    419  Steven  (1.0) Uh::m (.) na::h it's like it's like I
    420          discussed with you (.) about the wider (.)
    421          do you know the ripple (.) remember doing
    422          that ripple?=
    423  Esther  =Yeah=
    424  Steven  =You've got the partner (.) the parents
    425          their anxious they don't want her to go to
    426          work because of the people that she's
    427          dealing with=
    428  Esther  =∘Yeah∘
    429  Steven  (.) and yeah (.) like I got it didn't I? I
    430          got that bit=
    431  Esther  =∘Yeah∘=
    432  Steven  =do you know what I mean? (.) I am really
    433          sorry=
    434  Esther  =But that's (.) I suppose that's different
    435          in a way because that is on paper (.) and
```

```
436          yeah we had a long discussion about all the
437          people affected but (.) I just wonder
438          whether it's different actually hearing it
439          directly from the person har::med (.)
440          whether that has a different impact?=
441   Steven =Yeah (.) yeah (.) it is quite hard to
442          listen to=
443   Esther =Um hum (.) yeah=
444   Steven =yeah I'm not surprised she felt sick (.) I
445          mean I would if someone did it to me (.) do
446          you know what I mean so yeah=
447   Esther =∘Um∘ (1.0) .hhh Deb is there anything that
448          you would like to (.) come out of this
449          meeting at all?
```

Esther asked if there was anything Steven would like to say or any questions he would like to ask (lines 411-413). He responded following a 0.8 second pause with a softly spoken '∘na:::h∘' to conclude he had no questions to ask and then he apologised (line 414-415), directing his turn at Esther. Steven's response demonstrated his intepretation of Esther's question as an invitation to apologise. Preference organisation refers to the structural relationship between the two parts of the adjacency pair format (Schegloff, 2007). Preferred responses to a first-pair part are simple with no delay (Schegloff, 2007) whereas dispreferred responses 'are typically delayed' and 'marked with hesitations' (Levinson, 2006, p.48). These delays usually occur in the silent gap between the first-pair part and the second-pair part and can be reflected in a long pause. Steven responded with hesitation and following this, Esther paused for 1.5 seconds anticipating further information, demonstrating that his answer was not perceived as adequate. Esther continued to pursue an adequate response and despite Steven offering a second apology, she responded to this by saying, 'but' (line 434) before asking Steven to consider the impact of 'hearing directly from the person har::med' (line 437-439), emphasising the significance of his pre-allocated listener role in the previous phase. Esther's epistemic status placed her in the first-pair part position enabling her to challenge what had been previously said. Steven responded in a latched turn, acknowledging that it was 'quite hard to listen to' (lines 441-442) and he said, 'I'm not surprised she felt sick (.) I mean I would if someone did it to me' (lines 444-446). Esther provided a latched continuer (line

447) followed by a 1.0 second pause suggesting that she was expecting Steven to continue talking.

Steven's responses were not accepted as adequate, demonstrated in Esther's pursuit of more information. An apology involves a speaker expressing sorrow and regret in an attempt to seek forgiveness from the person harmed (Tavuchis, 1991). Steven's apology did not include any demontration of sorrow or regret. He maintained the participation framework, directing his responses at Esther; therefore, his apology was not directed at the victim. This prevented the remedial interchange from taking place because Deb was not placed in a position to respond to the apology and no acknowledgement or acceptance could immediately take place.

The following extract involved the facilitator asking the offender 'does it show things differently?' after hearing directly from the victim.

```
Example 34 - Meeting 4: 891- 900
   891   Esther  S:::o (.) having heard from both Simon and
   892           Claire (.) about that impact (.) do you have
   893           any response to that is it (.) does it show
   894           things differently ⌈at all?⌉
   895   Brian                      ⌊Yeah it⌋ does show me
   896           things differently (.) I didn't think it
   897           would have affected him that much I just
   898           shrugged it off as (.) saying it out of
   899           anger=
   900   Esther  =Um hum=
```

Esther asked Brian two questions; 'do you have any response' and 'does it show things differently at all?' (lines 892-894). Brian responded (line 895) to Esther's question before she had completed her turn which represented a cooperative overlap attempting to meet the expectations of the latter part of Esther's question. Brian's answer was responded to by Esther with a latched continuer (line 900) demonstrating alignment with the progression of Brian's response which continued beyond the example provided above.

The next extract followed Brian's response in Example 34 and involved Esther asking the first question again, 'is there anything you want to say?'.

```
Example 35 – Meeting 4: 967-970
    967   Esther  =So is there anything you want to say to
    968           Simon?=
    969   Brian   =Yeah I want to say I'm genuinely sorry for
    970           what I said
```

Esther's phrasing of the question (line 967-968) fits one widely accepted way of inviting an apology. For example, this question resembled the talk of parents when prompting a child to apologise by saying, 'is there anything that you would like to say?' Brian responded with a latched turn, 'I am genuinely sorry for what I said' (line 969-970). This turn extended beyond the example above and Brian continued to say that he was under the influence of drugs and alcohol at the time of the offence and that he suffered with mental health difficulties. Although Brian admitted the offence was wrong, he denied full responsibility by excusing his behaviour (Scott & Lyman, 1968). Offenders 'may acknowledge responsibility and offer apologies but they also may be accompanied by various excuses and justifications' (Hayes, 2006, p.378). This turn was directed at Esther and resulted in no response from Simon (the victim). The way an apology is constructed is a 'remarkably fragile gesture' and if it is mismanaged this can reduce the 'chance of forgiveness and reintegration' (Halsey *et al.*, 2014, p.102). Brian's apology was not directed at the person harmed resulting in no opportunity for the remedial interchange to take place. Examples 33 and 35 have shown that the specialised turn-taking procedures and pre-allocated roles made misdirected apologies more likely and directed apologies difficult, although not impossible as the next example will demonstrate. When apologies were directed at facilitators, this prevented a remedial interchange from taking place because the victim was not placed in a position to respond.

7.6.2 Directed Apology

In contrast to Meetings One and Four, the following extract shows the offender apologising to the victim directly and asking to shake his hand. The victim responded to this by saying, 'that was a good gesture'.

```
Example 36 – Meeting 5: 564-593
    564   Esther  ↑So (.) if I can just come back to you Rob
    565           (.) ↑s::o (.) yo::u've hear::d from (.)
    566           Pete (.) you've heard how he was affected
```

```
567              by it (.) uh::m (0.2) what's your response
568              to to that?
569   Rob        (.) °Um° (.) °it's really° (.) °it's like°
570              (.) it's like an eye-opener in it to
571              realise cos obvi (.) you don't really think
572              (unclear) °Obviously I feel a bit bad it°
573              (.)°about your daughter and that° (0.2)
574              I'm sorry anyway (.) can I shake your hand?
575              (.) um ((Shaking hands))
576   Pete       (1.8) That was a good gesture that (.)
577   Rob        °I get a bit° anxious (.) talking about it
578              and ⌐that⌐
579   Esther         └Yeah┘ Yep (.) and I think it's
580              important (.) you know (.) for you to se::e
581              that (.) something that (.) yo::u say you
582              didn't think very much about (.) actually
583              has a big impact and that's wh::y (.) this
584              meeting is so important because (.) unless
585              you hear directly from the person (.) you
586              know (.) we can do all sorts of work with
587              you (.) we can talk about victims we can do
588              exercises but (.) actually there is
589              something about coming face to face with
590              someone that you have directly har::med (.)
591              uh:m (.) that I think is (.) it makes a
592              difference doesn't it? It's said, it's an
593              eye-opener
```

Rob responded to Esther's invitation to apologise with a minimal gap, directing his turn at
Pete (the victim), demontrating remorse, 'obviously I feel a bit bad about it….about your
daughter and that' (lines 572-573), offering an apology, 'I'm sorry anyway' (line 574) and
then asking Pete, 'can I shake your hand?' (line 574). Pete responded to this by shaking
Rob's hand, reflected in the 1.8 second pause, and acknowledged it as 'a good gesture' (line
576). Pete was thereby demonstrating appreciation (Goffman, 1971) for Rob's request to
shake his hand following the apology. Pete's acknowledgement (Owen, 1983) concluded the

remedial interchange, highlighting the importance of the apology being directed at the person harmed. Esther accepted this as adequate, as shown by the agreement acknowledgement token, 'yeah' (line 579) which overlapped Rob's previous turn. This was a cooperative overlap that concluded what Rob had previously said about this experience being an 'eye-opener' (line 593). Unlike the previous examples examined (33 & 35), there were no hesitations present except for the 1.8 second pause while the handshake took place. The conversation flowed in a cooperative way and Rob's response was accepted as adequate. This example showed that when offenders offer sincere apologies that include a demonstration of 'remorse, forgiveness and reconciliation are more likely to follow' (Hayes, 2006, p.375).

7.6.3 Self-Initiated Apology

The reparation phase in Meeting Two occurred differently. When the victim account phase was concluded by Sarah (the second facilitator) thanking Imran (the victim), Imran initiated his own turn, stepping away from the specialised turn-taking procedures. This turn was directed at Danny (the offender), telling him to learn from his mistakes and continued in the following extract with Imran saying, 'I'm gonna forgive you'.

```
Example 37 -Meeting 2: 826-834
    826  Imran  That day (.) I (.) I'm gonna forgive you for
    827         what you have done to me (.) u:h (.) or to
    828         the bus that, (.) that day (.) uh for me (.)
    829         you're forgiven (.) u:::h (.) forget about
    830         it (.) forget about it (.) Nothing happened
    831         to me (.) I'm alright (.) I'm doing very
    832         well now (.) u:::mh you just (.) uh (.) from
    833         now on (.) behave different (.) °different°
    834  Danny  (0.2) Yea::h=
```

This self-initiated turn from Imran offered Danny forgiveness, 'I'm gonna forgive you' (line 826), stating, 'I'm alright, I'm doing well now' (lines 831-832) and concluded by offering advice, 'behave different' (lines 833). Imran's turn highlighted his epistemic stance, demonstrated in the territories of knowledge he held in relation to Danny (Heritage, 2012). Imran stepped away from the specialised turn-taking procedures, directed his turn at Danny and asserted knowledge claims (Heritage, 2013) by offering forgiveness and advice. Danny

jointly recognised (Heritage, 2013) these claims by aligning with them, providing an agreement continuer (line 834).

The following extract involved Danny responding to Imran by expressing his need to 'apologise'.

```
Example 38 – Meeting 2: 866- 876
    866   Danny  (.) and that's it's really (.) it's opened
    867          my eyes (.) as much as you had to go through
    868          the pain (.) of everything (.) in order for
    869          me to get to this position (.) I don't know
    870          how (0.2) I don't know how or why God's done
    871          it in that way (0.2) but as the person
    872          that's sitting in front of you and the
    873          person that put you through that, I… The
    874          only thing that I can do right now is to
    875          apologise
    876   Imran  (0.2) That's okay=
```

Danny's self-initiated turn was directed at Imran (lines 867-868) and talked about how the offence had changed him (lines 868-869). Danny concluded with an apology, 'the only thing that I can do right now is to apologise' (line 874-875). When an apology is the primary action being accomplished the preferred response is acknowledgement or acceptance (Owen, 1983). Imran responded with an acceptance of the apology, 'that's okay' (line 876) delivered with a minimal gap. This acceptance reflected what Goffman (1971) termed, 'minimisation'. Danny and Imran worked together collaboratively to achieve a remedial interchange. Example 38 has shown that when offenders express remorse, victims see that they 'regret what they have done and are sorry' (Hayes, 2006, p.373).

Apologies can be the second-pair part of a complaint-apology adjacency pair structure (Psatha, 1995). However, Meeting Two (Examples 37 & 38) showed the adjacency pair apology-minimisation (Goffman, 1971; Levinson, 1983) structure and before that, a heightened minimisation in Imran's volunteering of forgiveness (lines 826-832). The way that the talk was formally organised in the restorative justice meetings prevented the complaint-apology adjacency pair from happening. The complaint was elaborated throughout

the victim account through the question-answer framework and fell directly before the reparation phase. However, a response to the complaint could not occur because of the pre-allocated roles and specialised turn-taking procedures that were apparent. The facilitator invited offenders to apologise in Meetings One, Four and Five and in Meeting Two the offender self-initiated an apology. Apologies directed at the victims including a demonstration of remorse were more effective because they received responses, concluding the remedial interchange. In Meetings One and Four, a response was not provided because the apologies from offenders were misdirected. The next section will examine instances in Meetings One and Four where victims were given the opportunity to respond to the accounts and apologies of offenders.

7.7   Responses to Undirected Apologies

In Meetings One and Four, no responses to the apologies took place because offenders directed their turns at the facilitator instead of the victim, preventing the remedial interchange from being concluded. Responses are an important part of the remedial interchange and they follow accounts and apologies. In the meetings where apologies were directed at victims (Meetings Two & Five), a response was provided. Therefore, this section will look at opportunities presented later in Meetings One and Four whereby victims responded to the accounts and apologies of offenders.

The following extract involved the facilitator asking the victim how she felt after being involved in the meeting, resulting in the victim expressing appreciation for the offender attending and acknowledging that he had 'kind of (.) apologised'.

```
Example 39 – Meeting 1: 677-697
    677  Esther  And Deb how do you feel after today? (.) Do
    678          you (0.2) I realise it's very immediate=
    679  Deb     =yeah=
    680  Esther  =how do you feel right now (.) is there
    681  Deb     (0.2) Uh:::m (.) I mean I appreciate that
    682          Steven's come today and kind of (.)
    683          apologised and (.) has kind of given his
    684          side of the story and you know there's
    685          things that I didn't know either (.) cos we
```

```
686          hadn't you know we hadn't had that
687          conversation (.) uh::m (.) but I just want
688          to say thank you as well because I think
689          (.) Esther's right (.) it takes a lot to
690          (.) come here and do what you've done (.)
691          and you know be (.) quite open and honest
692          really and that's something that I don't
693          feel that we have ever had before when I=
694  Steven  =Yeah=
695  Deb     =supervised you (.) so (.) you know I do
696          appreciate that and (.) I just want to say
697          thanks
```

Esther's epistemic status enabled her to ask Deb the question about how she feels 'right now' (line 680) about the meeting despite it being a 'very immediate' (line 678) request. Deb responded following a 0.2 second pause with an extended discourse marker, 'uhm' (line 681) before aligning with Esther's epistemic status and responding to the question she found difficult to answer demonstrated by the marked hesitation. Deb said she appreciated that Steven had 'kind of (.) apologised' (line 682-683). Without a demonstration of regret or remorse, apologies can be perceived as lacking in effort (Scher & Darley, 1997) which is what the words 'kind of' indicated. Deb said Steven had been 'quite open and honest' (line 691) after acknowledging how difficult it must have been for him to attend (698-690). She thanked Steven on two occasions (lines 688 & 969-697) in response to the account and apology he provided which 'had been performed at some special cost to the offender' (Owen, 1983, p.101). This demonstration of appreciation (Goffman, 1971) concluded the remedial interchange.

The following extract involved the facilitator asking the victim if there was anything that he would like to hear from the offender. The victim responded to this by telling the offender, 'you're a good man'.

```
Example 40 - Meeting 4: 1117-1128
   1117  Esther  Simon (.) can I just ask you then (.) what
   1118          would you like (.) to hear from Brian (.) as
   1119          a result of today (.) what would give you
   1120          some
   1121  Simon   (0.2) I mean (.) I think Brian's been quite
   1122          (.) quite honest and I'm really happy Brian=
   1123  Brian   =Yeah=
   1124  Simon   =because you're (.) you're a good man=
   1125  Brian   =Um (0.2) thank you=
   1126  Simon   =unfortunately (.) the drugs and alcohol=
   1127  Brian   =Um=
   1128  Simon   =don't help
```

Esther asked Simon what he would like to hear from Brian (line 1117-1118) and Simon responded by offering a demontration of appreciation (Goffman, 1971) saying that he thought Brian had been 'quite honest' (line 1122), concluding, 'you're a good man' (line 1124). The importance of appreciation was demonstrated by Simon offering it despite not being asked to. Forgiveness is not always demonstrated in the literal sense. There are occasions when an example of forgiveness can be shown by a person recognising circumstances that could have contributed to causing the offender's actions (Zechmeister & Romero, 2002) which was demontrated by Simon acknowledging that drugs and alcohol did not help Brian (lines 1126-1128). Whilst Simon was talking, Brian provided three latched continuers (lines 1123, 1125, 1127) supporting the progression of his turn. Interestingly, the same lexical choice was used in Example 40 that was present in Example 39 when Simon said that Brian had been 'quite honest', implying he had not been fully honest. Despite this, Simon's offer of appreication concluded the remedial interchange. The next section will examine instances of conciliatory talk which is similar to restorative talk; however, it involves victims and offenders directly engaging with each other, indicating a shift in their relationship.

7.8 Conciliatory Talk

This section will examine some examples of conciliatory talk that occurred in the reparation phase and followed the closure of the meetings. Conciliatory talk consisted of cooperative, self-initiated turns that took place between the victim and offender, demonstrating familiarity and a shift in their relationship.

The following extract involved the victim and offender engaging in direct talk. The conversation was focused on the idea that Rob (the offender) would take part in a charity run as a form of symbolic reparation, resulting in Pete (the victim) offering the advice, 'Don't (.) do it straight away'.

```
Example 41 - Meeting 5: 612-632
   612   Esther  So (0.2) so is that something that you'd be
   613           prepared to do?=
   614   Rob     =Yeah yeah I think 5k maybe [laughs]=
   615   Pete    =£{laughs} Well start off ↑with ↑5K ↑yeah
   616           (.) ⌈why not?£⌉
   617   Esther      ⌊It doesn'⌋t matter (.) it doesn't
   618           matter (.) so alright well let's sort of
   619           formalise this then (.) shall we say that
   620           within (0.5) well you say though (.) what
   621           (.) what's a reasona⌈bl:e?⌉
   622   Pete                        ⌊Don't⌋ (.) don't do it
   623           straight away because you need to train
   624           first ⌈even for 5k⌉
   625   Rob           ⌊Yeah I know⌋ I need to get fit yeah=
   626   Esther  =Well supposing we say within six months=
   627   Pete    =Yeah I was just thinking six months=
   628   Rob     =Yeah=
   629   Esther  =S::o (.) uh:::m=
   630   Rob     =I've run about 2 (.) 3K anyway (.)=
   631   Pete    =↑Yeah=
   632   Rob     =∘Yeah∘=
```

Pete and Rob stepped away from the specialised turn-taking procedures and talked in a supportive and cooperative way, demonstrating conciliatory talk. When Rob agreed to do a 5K run (line 614), Pete responded with a latched turn spoken in a smiley voice (Jefferson, 2004 - line 615), agreeing with what Rob had said. Pete mirrored Rob in a supportive way and together they answered the question asked by Esther. Esther tried to re-establish the formal order of the talk with an interruptive overlap (line 617) that attempted to dominate the previous turn in a competitive way. Pete interrupted Esther and directed his turn at Rob, offering him advice, 'don't do it straight away because you need to train first even for 5K' (lines 622-624). Pete's epistemic stance was acknowledged by Esther who did not attempt to regain the floor and by Rob who provided a cooperative overlap, demonstrating agreement to the advice Pete had offered (line 625). Rob later initiated a turn that offered information, telling Pete, 'I've run about 2 (.) 3K anyway' (line 630) and Pete responded with a supportive latched turn with a raised intonation saying '↑yeah' (line 631) demonstrating receipt of news. Pete and Rob were working together to answer questions asked by Esther that formed a reparation plan, demonstrating conciliatory talk because it was familiar and informal and showed a change in the relationship between victim and offender.

When restorative justice meetings are concluded, they often include a phase after 'formal business' has taken place where the participants are invited to share a cup of tea or coffee and chat informally. The following extracts occurred after the meetings had been formally closed and both resulted in victims offering offenders lifts. Example 42 involved the victim saying, 'I can take you over' and Example 43 involved the victim saying, 'I'll give you a lift'.

```
Example 42 - Meeting 1: 824-835
    824  Deb     Are you walking?=
    825  Steven  =Yeah
    826  Deb     (.) Oh right (.) because I am driving over
    827          to XXXX (.) if you want to=
    828  Steven  =What are you going now?=
    829  Deb     =Yeah (.) if you want to?=
    830  Steven  =Yeah (.) sure=
    831  Deb     =If you want to come with me I can take you
    832          over?
    833  Esther  (0.2) Ok so you can both leave=
    834  Anne    =That's nice=
```

```
      835  Steven  =Yeah=


  Example 43 - Meeting 2: 987-992
      987  Imran   Thanks Danny (.) yeah (.) just forget
      988          everything man yeah (.) we can go together
      989          (.) don't worry (.) do you want (.) I'll
      990          give you a lift anyway if you want?=
      991  Danny   =Okay=
      992  Imran   =Yeah (.) come on (.) no problem (.) yeah
```

Once the meetings had been formally closed, the formal restrictions were no longer apparent. In Example 42, Deb offered Steven a lift (line 829) and Steven responded with a latched agreement (line 830), accepting the offer. In Example 43, Imran offered Danny a lift (line 989-990) and Danny responded with a latched agreement (line 991), again accepting the offer. These naturally occurring conversational turns alongside the topic of conversation demonstrated a shift in the relationship between victims and offenders. This was symbolic of a willingness to continue these relationships for at least a brief time after the restorative justice meetings were over. The instances of informal talk examined in this section have shown that the meetings ended on good terms. Meeting Four was not included in this section because no instances of conciliatory talk occurred between the victim and offender. The end of Meeting Four varied in comparison to the other meetings, most probably because it took place in a prison; therefore, the offender was taken back to his cell at the point where informal conversation would usually occur.

7.9 Conclusion

The reparation phase was opened with a question that the offenders seemingly interpreted as an invitation to apologise. When the apology occurred alongside a demonstration of remorse and was directed at the victim, this was more effective because it led to victims demonstrating forgiveness by responding with appreciation (Example 36) and acceptance (Example 38), concluding the remedial interchange. When the apology occurred without a demonstration of remorse and was directed at the facilitator, victims were not able to respond, preventing the remedial interchange from taking place.

When victims did not respond to apologies, they were later asked a question that enabled them to demonstrate appreciation to offenders. In Example 39 the victim said that the offender had 'kind of apologised' (line 682) showing that the apology had been perceived as lacking in commitment, which happens when no demonstration of remorse is offered (Scher & Darley, 1997). In Meetings One and Four, offenders justified and excused their behaviour. In Meeting One, the offender referred to reacting to the news of receiving a second breach with aggression because he had not been aware of missing previous appointments. In Meeting Four, the offender referred to drugs, alcohol, and mental health difficulties, excusing his behaviour. It is common that accounts and apologies are 'accompanied by various excuses and justifications' (Hayes, 2006, p.378). In Examples 39 (Meeting One) and 40 (Meeting Four), both victims referred to offenders being 'quite honest' showing that their accounts and apologies were accepted as qualified, which refers to the excuses and justifications that were given alongside them.

The word forgiveness was rarely found to be used in some restorative justice meetings (Shapland, 2016) but could be demonstrated in other ways. In Meetings Two and Five, forgiveness was demonstrated when victims immediately responded to the apologies of offenders with appreciation and acceptance. In Meeting One (Example 39), the victim thanked the offender, acknowledging that remedial work had 'been performed at some special cost' to him (Owen, 1983, p.101). In Meeting Four (Example 40), the victim demonstrated forgiveness by showing that he understood the reasons for the offending behaviour (Zechmeister & Romero, 2002). The remedial interchange was not always concluded directly after an apology had been offered by offenders. However, demonstrations of forgiveness were found to occur as the reparation phase progressed. Conciliatory talk was found later in Meetings One, Two and Five which was an additional concluding factor to the remedial interchange, showing a shift in the relationship between victims and offenders.

Chapter 8

Meeting Three

8.1 Introduction

Meeting Three was different from the other meetings that have been examined. The participants that attended the meeting were a facilitator (Esther), an Alcohol and Drug Support Worker (Denise) and an offender (Dave). The crime that Dave committed involved both using and selling illegal drugs, making him both a victim and an offender, which complicated things because restorative justice meetings are premised on a clear separation between a victim and an offender. There was no other victim present and this had an impact on the ordered phases of the meeting because there was no victim account or reparation phase. Meeting Three began with an opening, followed by the offender account which resembled the same format as the other meetings. Denise was then placed in a position to offer an account of her professional experience working in the alcohol and drug field and this phase will be referred to as the 'professional account'. The final phase of Meeting Three involved Dave being asked if he saw things differently after hearing from Denise, which was alternative to offenders being invited to apologise to victims. This will therefore be referred to as the 'seeing-things-differently' phase.

This chapter will start by examining what was said in the opening remarks of Meeting Three, identifying the impact that this had on invoking the procedures to come. The questions asked, the types of questions and the continuers provided were counted in Meeting Three in the same ways that they were in the other meetings. The offender account, the professional account and the seeing-things-differently-phase will all be examined, segments of the talk will be transcribed and analysed and comparisons to the other meetings will be made. The conversational differences apparent in Meeting Three will be examined and the purpose of comparing Meeting Three to Meetings One, Two, Four and Five will be to highlight the aspects of restorative justice talk that help to achieve the objectives of the meetings. This chapter will demonstrate the significant part that institutional talk and the attendance of the victim played in achieving the objectives of restorative justice. Meeting Three struggled to achieve restoration without these features being in place.

8.2 The Opening

As we have seen in Meetings One, Two, Four and Five, the opening remarks set the shape of what was to come. The opening remarks in Meeting Three differed in comparison to the other meetings and the following extracts will illustrate this. Esther explained that this meeting would involve 'just having a conversation'.

```
Example 44 - Meeting 3: 8-15
     8   Esther  So with all restorative justice conferences
     9           (.) there is a script s:o I am required to
    10           ask certain questions but after we've sort
    11           of gone through those then really it's
    12           about just having a conversation so it's
    13           not a formal process (.) but we are
    14           required in terms of best practice we are
    15           required to ask certain questions
```

Esther referred to the script (line 9) and said that she was 'required to ask certain questions' (lines 9-10). She was setting up the procedure that involved her being pre-allocated to ask the questions and Dave being pre-allocated to answer them, setting up the question-answer framework present in the other meetings and forming the basis for the offender account. Esther also said that, following the question-answer framework, the meeting would be 'about just having a conversation' (line 12), concluding, 'it's not a formal process' (lines 12-13). Her approach here differed from that which she had used in Meetings One, Two, Four and Five because in those meetings the question-answer framework was apparent throughout with some loosening of restrictions in the reparation phase. There was no victim account in Meeting Three because no victim attended this meeting, while Denise attended 'because of her work', highlighting the significance of her experience which was explained in the following extract.

```
Example 45 – Meeting 3 – 32-52
    32   Esther  Uh:m (.) [[clears throat]] so this is
    33           Denise (.) Denise is from the drug and
    34           alcohol services (.) uh:::m (0.5) it's not
    35           technically a surrogate victim (.)
```

```
36            sometimes we have conferences where
37            (.) we have a surrogate victim so for
38            example (.) somebody who (.) uh:m (.) has
39            been the victim of the sam:e crime (.) or a
40            very similar crime (.) might step in (.) to
41            play the role of a victim when the actual
42            victim (.) either can't trace them or they
43            don't want to take part (.) [[clears
44            throat]] this is slightly different in as
45            much as (.) Denise's here not as a
46            surrogate victim but just because she (.)
47            because of her work she can talk a bit
48            about (.) how she sees victims in the
49            course of her work and (.) just to give a
50            bit of insight into how people are affected
51            by drugs (.) Uhm (.) so I'm sure you will
52            talk about that more later
```

Esther explained that Denise was not a surrogate victim (lines 34-35); instead, she was there because she worked in drug and alcohol support to 'give a bit of insight' into how people were 'affected by drugs' (lines 49-51) and to demonstrate how she saw 'victims in the course of her work' (lines 48-49). Dave had committed the crime of possession with intent to supply illegal substances which was the result of running up a debt because of his own substance use. This crime made Dave both the victim and offender. Dave was a victim of his own behaviour because taking highly addictive illegal substances resulted in him owing money, placing him in the position of being asked to sell drugs to pay this back. Arguably Dave could have been exploited because of his vulnerabilities in this area. When Dave sold drugs, this placed him at further risk of being a victim of other crimes related to this offence such as turf wars, violent attacks, and robbery. Esther commented that Denise's experience would be used to help Dave understand the impact his actions had on others as well as himself. Denise's position in the meeting held a duality of purpose. On the one hand, she was there as a drug and alcohol support worker, so she occupied a professional position like Esther. One the other hand, she had a special insight into the experiences of drug users who were a major class of persons victimised by Dave's behaviour as a dealer. This set up a different dynamic between

the participants where the standard triadic relationship between the facilitator, victim and offender in the other meetings was reduced to a dyadic offender and facilitator relation. Simmel (1950) often spoke of 'parties', which can include a number of persons existing as one party. A 'dyad' involves two parties constituting a pair (Simmel, 1950) and in Meeting Three, Esther and Denise existed as one part of the pair and Dave existed as the other. The next section will look at the offender account and how questions were asked and managed to achieve the objectives of encouraging responsibility and promoting an understanding of the impact caused by Dave's actions.

8.3 The Offender Account

The offender account phase involved talk that was similar across all the meetings. The questions asked were designed to elicit information about what happened on the day of the offence, to encourage the offender to take responsibility for his actions, and to explore the impact that his actions had on others.

In Meeting Three, the facilitator asked the offender 45 questions, 28 of them in unknowing formats and 17 in knowing formats. This was the highest number of questions asked in the offender account phase across the five meetings (see Table 2). The findings from Meeting Three resembled Meetings One, Two and Five where the number of unknowing formatted questions was higher than the number of knowing formatted questions asked. In Meeting Three, the facilitator directed three continuers at the offender, resembling the findings in Meeting Five. The continuers provided by facilitators and directed at offenders in Meetings One, Two and Four were more numerous. The findings from Meeting Three showed the back-and-forth question-answer framework that developed, reducing the turn size of the offender's talk.

This section will look at how questions were asked by the facilitator to achieve the objective of accepting responsibility and promoting an understanding of the impact the offender's actions had on others. Throughout this analysis, comparisons to Meetings One, Two, Four and Five will be made.

8.3.1 Accepting Responsibility

The offender account phase followed the same procedures identified in the other meetings. Esther followed the script which pre-allocated her to ask the questions and pre-allocated Dave to answer them. The responses given were managed through continuers, acknowledgement tokens and questions.

The following extract involved Esther asking Dave questions about what led up to the offence, clarifying whether his debt was because of 'drugs'.

```
Example 46 - Meeting 3: 137-144
     137  Esther  And when you say you got into debt (.) was
     138          that debt through drugs?=
     139  Danny   =Yeah it's through cocaine that=
     140  Esther  =Right (.) so your own use=
     141  Danny   =Yeah=
     142  Esther  =You ran up debts because of your own
     143          ⌐cocaine u⌐se?
     144  Danny   ⌐Yeah yeah⌐
```

Esther asked Dave an unknowing formatted question (lines 137-138) about whether he got into debt because he used drugs (lines 137-138). Dave provided a latched agreement in response confirming that it was 'through cocaine' (line 139). Esther then asked two knowing formatted questions, 'so your own use?' (line 140) and 'you ran up debts because of your own cocaine use?' (lines 142-143). Esther's epistemic status placed her in the first-pair position to ask these questions and the way that she asked them demonstrated her power to construct knowledge through declarative statements which Dave acknowledged and responded to. Esther emphasised the substance of what Dave had previously said and invited him to confirm these assertions. She emphasised these points to achieve the institutional objective of getting him to accept responsibility for his actions. Dave provided two agreements: the first was latched confirmation (line 141) and the second was a cooperative overlap (line 144), answering Esther's question in a preferred way before she had completed her turn.

The following extract involved Dave claiming, 'when you're young (.) you don't think' and attempting to evade responsibility for his actions.

153

```
Example 47 - Meeting 3: 162-181
    162  Esther  The thing is people quite often say well
    163          I didn't really think about it but
    164          actually we all do (.) we have to
    165          ⌈think before we do anything⌉
    166  Dave    ⌊No no no (.) I don't really⌋ feel that
    167          (.) at that time when you're young (.) you
    168          don't think do ya? Like now I would've
    169          thought=
    170  Esther  =Ok=
    171  Dave    =what could happen? What if this happened?
    172          But at the time (.) nothing had ever
    173          happened to me like that (.) so I was
    174          blind really to all that=
    175  Esther  =.hhh But there must've been some way up
    176          in your mind (.) there must've been some
    177          if I do this it's going to get me out of
    178          the mess I'm in=
    179  Dave    =Oh yeah that (.) that's why I sort of
    180          done it because it's going to get me out
    181          of the debt isn't it?
```

Esther used her epistemic status to challenge what Dave had previously said (lines 162-165). She asserted her claims to knowledge by stating that although people say they do not think, 'actually we all do' (lines 162-165). This attempted to get Dave to accept responsibility for the thoughts he had before committing the crime. Despite the claimed knowledge asymmetry in this interaction, Dave disagreed by interrupting Esther (lines 166-169), 'dominating her turn space in a competitive way' and showing that what was said was subject to challenge and negotiation (Izadi, 2018). The negotiation centred on Dave's claim that he was not thinking at the time because of his age and this answer did not align with the institutional objective of accepting responsibility.

Esther provided a neutral latched continuer (line 170) and when Dave completed his turn, she responded by saying 'but' (line 175) showing dissatisfaction with his previous response. She attempted to pursue an adequate response by persuasively re-narrating Dave's account. She used her epistemic status to create an interpretative framework to 'make sense of institutional facts' (Thompson, 2017, p.5), assuming Dave's thoughts by providing a knowing formatted question that invited confirmation she said, 'there must've been some if I do this it's going to get me out of the mess I'm in' (lines 176-178). Esther used the word 'must' on two occasions (lines 175 and 176) and the declarative statement reflected an epistemic stance that was responded to by Dave in latched agreement (lines 180-181). Esther's claim to knowledge was used to actively encourage Dave to accept responsibility for his own thoughts before committing the crime. Example 47 resembled talk that was present in Meeting Two (see Examples 19 and 20).

Restorative justice discourse seeks to encourage responsibility for actions and Dave enacted a proxy version of taking responsibility by accepting responsibility for his thoughts. Examples 46 and 47 shows that the approach used in the offender account across all the meetings was similar. Dave was persuasively encouraged to re-narrate his account, making it align with the objective of restorative justice. Dave's talk was scrutinised, like that of the offenders in the other meetings, and was demonstrated in the challenges that Esther directed at him.

8.3.2 Understanding Impact

This section will focus on parts of the offender account that attempted to elicit information from Dave about the impact of his actions on others.

The following extract shows Esther asking Dave who he thought had been affected by his actions, to which he replied 'no-one'.

```
Example 48 - Meeting 3: 297-321
    297   Esther  So (0.5) who do you think has been affected
    298           by::y what you did? (0.2) For those years=
    299   Dave    =Probably just (.) I don't think it's no-
    300           one like (.) who we sold weed to because
    301           weed let's have it right (.) it's not
    302           nothing is it weed (.) no-one's ever died
    303           off it or nothing like that=
```

```
304   Esther   =Well=
305   Dave     =but I just think it's my family be honest=
306   Esther   =Ok=
307   Dave     =it ruined my family a bit (.) but there's
308            no victims where (.) I don't (.) I know how
309            you see it like people are probably robbing
310            their mums to come and buy weed off me but
311            it's not like that really=
312   Esther   =Well we'll hear from Denise in a bit
313            ⌈so you'll hear⌉
314   Dave     ⌊She probably k⌋nows that side of the story
315            ⌈I don't see that side⌉
316   Esther   ⌊Well that's why (.) t⌋hat's why I've asked
317            you to come ⌈because I t⌉hink it'd be
318   Dave                ⌊Yeah course⌋
319   Esther   interesting=
320   Dave     =That's why I've come because I get it (.)
321            I get it=
```

Esther asked an unknowing formatted question (line 297-298) which invited Dave to elaborate, promoting sequence expansion (Heritage, 2012). He responded with a latched turn that started with, 'probably just' (line 299), which attempted to consider impact and showed an awareness of the expectation of the question. He then initiated a self-repair and asserted that nobody was affected (lines 299-303). Esther assessed the answer and then attempted to initiate a new turn, 'well' (line 304), promoting sequence closure and showing that his answer was not accepted as adequate. Dave acknowledged this as a trouble source and continued to speak by initiating a self-repair, 'but I think it's just my family to be honest' (line 305). Esther responded with a latched continuer, 'okay', supporting 'the structural asymmetry of the story telling activity' by acknowledging that the turn was still in progress (Stivers, 2008, p.34), demonstrating an acceptance of this answer as adequate because it met the expectations of the question.

Dave then claimed for a second time that there were no victims (lines 307-308), resulting in Esther providing a latched turn, 'well we'll hear from Denise in a bit so you'll hear' (lines

312-313). This highlighted Denise's epistemic status as someone who 'knows' and the purpose of the next phase of the meeting as being to move Dave from a K- to a K+ gradient position in understanding the impact of his actions. The next turns included cooperative overlaps from Esther and Dave (lines 314, 316, 318) that demonstrated agreement and alignment. These overlaps demonstrated equal participation rights that differed from the restricted participation rights of offenders in Meetings One, Two, Four and Five.

The following extract shows Esther asking Dave 'how else' his parents might have been affected by his actions (Dave had previously acknowledged his family as being harmed by his actions).

```
Example 49 – Meeting 3: 341-365
    341   Esther  =Okay (.) s:::o=
    342   Dave    =People do though (.) people think it's a
    343           starter off drug or whatever and all that
    344           don't they but (.) it's only a plant at the
    345           end of the day isn't it? That's how I
    346           see it (.) other
    347           ⌈people see it as bad though don't they⌉
    348   Esther  └Well we'll hear (.) we'll hear (.) Uh:┘::m
    349           (.) so your family obviously your sisters
    350           (.) your young sisters are seeing things
    351           that you'd rather they hadn't seen=
    352   Dave    =Yeah=
    353   Esther  =how else do you think your parents apart
    354           from your parents witnessing that (.) how
    355           else do you think your parents might have
    356           been affected by (.) your behaviour?
    357   Dave    (0.2) Just obviously (.) uh:::m (.) it's
    358           everything to do like say the police come
    359           in the house all the people in the street
    360           seeing it (.) and all that (.) they
    361           probably don't like (.) no-one wants to see
    362           that do they? (.) uh:::m (0.5) and just
    363           probably worried about me for ten months on
```

```
364             bail as well (.) that's one of them isn't
365             it?
```

Esther provided the acknowledgement token, 'ok' before saying 's:::o' (line 341) indicating a topic shift was about to occur but Dave continued to talk, minimising his behaviour (lines 342-346). Esther interrupted, 'well we'll hear (.) we'll hear' (line 340), claiming immediate control over the discourse by pressuring Dave to stop talking whilst highlighting Denise's epistemic status and the significance of the next phase. Esther then provided a knowing formatted question, 'so your family obviously your sisters (.) young sisters are seeing things that you'd rather they hadn't seen?' (lines 340-433) which demonstrated her epistemic status. Esther selected information from what Dave had previously said about his sisters seeing cannabis when the police went to his house. Dave had blamed the police in this instance, but Esther created a new interpretive framework (Thompson, 2017) that invited him to agree that his sisters had seen things he had 'rather they hadn't'. This placed Dave in a position to respond in agreement, which he did (line 344). Esther's next question was an unknowing format (lines 345-348) that pursued an adequate response. Esther emphasised Dave's parents because this interpretative framework (Thompson, 2017) highlighted the impact of Dave's actions on others. The next question asked by Esther (line 345) continued to pursue an adequate response that focused on how else Dave's parents were affected by his actions and he responded in a way that met the expectations of the question (lines 349-357). Although Dave finally met the expectations of the question, it is significant that, without involving his family in the meeting, there was no opportunity for him to hear from them as victims. This prevented him from being able to express regret or even apologise.

This section has showed that in the offender account in Meeting Three, the same procedures were apparent that were present in the other meetings. There was a specialised turn-taking procedure with pre-allocated roles. Esther was pre-allocated to ask the questions and Dave was pre-allocated to answer them. Esther was placed in a position to emphasise and challenge the answers given and she used continuers, acknowledgement tokens and further questions to co-construct a narrative that was adequate for the restorative justice meeting. There were instances where Dave did not conform to his pre-allocated role, but this also occurred in Meeting One (see Example 24). When difficulties occurred in the restorative justice meetings, the facilitator used her epistemic status to meet objectives and maintain formal

order. The next section will focus on the professional account which was the phase that followed the offender account.

8.4 The Professional Account

The next phase of the meeting would usually be the victim account which involved the facilitator asking the victim questions whilst the offender was pre-allocated to listen to gain an understanding of the impact of his actions by hearing directly from the person harmed. However, in Meeting Three there was no victim present. This phase will be referred to as the 'professional account' because it involved Denise talking to Dave about her professional experience in the drug and alcohol field. The key difference in Meeting Three was that the crime Dave committed made him both victim and offender and Denise tried to help him see that he was a victim. This phase of the meeting involved a conversation where Denise spoke and Dave responded, demonstrating equal participation rights. Denise remained in the first-pair position and led the interaction, but she did not follow a script which was different from the scripted questions apparent in the victim account of the other meetings. Instead, she decided what she felt was relevant to discuss.

There were no unknowing formatted questions asked by any participant during this phase of the meeting. Coding knowing formatted questions during this phase was difficult because of the conversational nature of the talk. As with other meetings, declarative statements responded to as questions were coded as knowing formatted questions.

There was a total of eight knowing formatted questions asked during this phase, four by Denise and four by Dave. Denise led the discussion and Dave responded, sometimes with knowing formatted questions, demonstrating understanding and active listening. The knowing formatted questions asked by Dave responded to what Denise said and did not form a first-pair part.

The professional account was introduced by Esther saying that Denise was going to talk to Dave about her experiences at work. The objective was to promote an understanding of the impact of his actions to others and to himself. The same objective was apparent in the victim account in the other meetings, but in those it was achieved by hearing directly from the person harmed.

This section will examine instances in the professional account where Denise explored the reasons why Dave got involved in the offence, and the purpose of sharing stories from her professional experience was to help Dave see he was a victim.

8.4.1 Getting Involved in the Offence

The following extract shows Denise asking Dave how he felt when dealers said he could sell drugs and make some money, asking if he thought, '£I'm one of the guys now'.

```
Example 50 – Meeting 3 – 492-518
    492  Denise  Uh:m (.) how did you feel when (.) the
    493          dealers said to you well yeah you can just
    494          start selling this (.) and make a bit of
    495          money (0.2) you said you didn't really feel
    496          anything (0.2) but was glad that you'd be
    497          able to get out of your debt (.) did not a
    498          little bit of you think (.) ey up (.) £I'm
    499          one of th⌐e guys now⌐?£ [laughing]=
    500  Dave            ⌊[[laughs]]⌋
    501          =Probably (.) yeah=
    502  Denise  =Because (.) because you get yourself a
    503          name don't you?=
    504  Dave    =Yeah yeah=
    505  Denise  =if you're a drug dealer you get yourself a
    506          name=
    507  Dave    =Course=
    508  Denise  =and you think=
    509  Dave    =And you think you're big (.) big willy and
    510          all that=
    511  Denise  =Yeah [[laughs]] big time Charlie banana=
    512  Dave    =Yeah=
    513  Denise  =Uh:::m (.) but that's often you (.) you
    514          think=
    515  Dave    =People do it just for that (.) don't
    516          they?=
    517  Denise  =Course they do=
```

```
518   Esther  =Some status I guess
```

Denise asked Dave how he felt when he was told he could make some money selling drugs (lines 492-495). Denise's epistemic status enabled her to be in the first-pair position and emphasise what Dave had previously said (lines 495-497). She used a knowing formatted question asking if Dave thought, '£I'm one of the guys now' (lines 477-499) which was said in a smiley voice (Jefferson, 2004) and invited agreement. This assertion was offered in a familiar and friendly way and concluded with her laughing. Dave laughed with Denise (line 500), demonstrating rapport before reluctantly agreeing (line 501). Denise pursued a more adequate response asking the same knowing formatted question on two occasions (lines 502-503 and 505-506) which invited and received latched agreement that Dave responded with (lines 504 and 507). These assertions claimed rights to knowledge based on Denise's professional experience, stating with all certainty, 'if you're a drug dealer you get yourself a name' (lines 505-506). When Denise introduced her next turn (line 508), Dave provided a latched response before she had completed her sentence, mirroring what she had said and completing the turn. Dave said, 'and you think you're a big (.) big willy and all that' (lines 509-510). There were three instances in Example 50 where echolalia-like repetition was used. Dave laughed with Denise (lines 499-500), Dave said, 'and you think' (line 509) which was exactly what Denise said and Denise responded to Dave's 'big willy' (line 509) comment by saying 'big time Charlie banana' (line 511) which showed familiarity, alignment, and a strong rapport. This familiar use of language was not apparent in Meetings One, Two, Four and Five.

Dave's participation rights were not restricted to the pre-allocated role of answerer or listener like victims and offenders in the other meetings examined; instead, he actively engaged in a 'conversation'. The final part of Example 50 concluded with Dave initiating a turn in the form of a knowing formatted question in response to what Denise had said (lines 515-516) saying, 'people do it just for that (.) don't they?' inviting Denise to agree, which she did with a latched turn (line 517). Esther then offered a statement that aligned with what was being said, confirming, 'some status I guess'. This talk differed from Meetings One, Two, Four and Five because Dave initiated his own turn, demonstrating a level of certainty in what he was saying and seeking confirmation. Esther spoke during the professional account which demonstrated that Denise and Esther were working together to achieve a particular objective.

8.4.2 Understanding Impact

The professional account involved Denise trying to help Dave see the impact that his actions had on himself. Denise did this by talking about stories of others from her professional experience. In one instance, Denise talked about a young woman who was selling a small amount of cannabis and how this resulted in five men breaking into her house and threatening her. The following extract comes immediately after this and involved a discussion about Dave being 'very lucky' that this had not happened to him.

```
Example 51 – Meeting 3: 544-565
      544   Denise   But that's the sort of thin::g (.) that as
      545            a dealer you're putting yourself at risk
      546            ⌈of that h⌉appening and (.) I know you said
      547   Dave     ⌊Yeah yeah⌋
      548   Denise   of that happening and (.) I know you said
      549            that your mum and dad were affected by it
      550            (.) by different ways (.) but if you were
      551            still living at home (.) and that sort of
      552            thing would've happened=
      553   Dave     I'm pretty lucky that nothing ever happened
      554            like that ⌈that's probably wh⌉y I didn't
      555   Denise            ⌊You are very lucky⌋
      556   Dave     stay at home at the time in a way that my
      557            Mum and Dad was=
      558   Denise   =Yeah=
      559   Dave     =but yeah=
      560   Denise   =But you can be (.) I mean you
      561            ⌈are very lucky⌉
      562   Dave     ⌊Things like th⌋at can happen
      563            ⌈just like that ⌉
      564   Denise   ⌊They happen ver⌋y (.) they happen quite
      565            a lot
```

Denise asserted concerns, 'that as a dealer you're putting yourself at risk' (lines 544-546) and claimed that if Dave had still been living at home with his family then the same could have

happened to him which would have had an impact on his parents (lines 548-552). Dave self-initiated a turn that talked about being lucky that nothing like that had ever happened to him (lines 553-554) and Denise agreed with a cooperative overlap (line 555). Denise said again, 'I mean you are very lucky' (lines 560-561), which emphasised the possibility that it could have happened to him. Dave provided a cooperative overlap asserting 'things like that can happen' (line 562) and Denise cooperatively overlapped with agreement (lines 564-565). The repetition used by Denise and Dave again demonstrated rapport and alignment.

The professional account was different from the victim account because it did not follow the same question-answer framework. Example 51 showed a conversation between Denise and Dave who both cooperatively overlapped the other's talk and Dave initiated his own turn without being prompted by a question, providing input about his personal experience. Dave held equal participation rights, whereas victims in the victim account phase were restricted to answering the questions asked by facilitators. In the victim account, offenders were pre-allocated to listen whereas Dave was actively engaged in the conversation. Dave was therefore given no time to reflect on what was being said and in addition to the offender account, Dave was put under pressure to achieve the objective of understanding impact by actively listening and responding to Denise's professional account. Dave was also encouraged to see himself as a victim, which differed from the other meetings because offenders were encouraged to focus on the impact that their actions had on others.

8.5 Seeing Things Differently

This phase of the meeting will be referred to as 'seeing things differently' instead of the reparation phase that was apparent in the other meetings. In Meetings One, Two, Four and Five, this part of the meeting would open with the facilitator referring to hearing from victims and then inviting offenders to say something in response. In Meeting Three, Dave listened to the professional account produced by Denise and was then asked if he saw things differently after hearing this. While this question was sometimes asked in the other meetings, Meeting Three differed because the offender was not placed in a position to listen to the victim and therefore could not be invited to apologise. Meeting Three could have still led to an expression of remorse for past actions, but this did not occur because Dave was unmoved by the arguments put to him.

The questions asked, the types of questions and the continuers provided were counted in Meeting Three in the same ways as they were in the other meetings that were examined (see Table 1). When coding the questions as unknowing or knowing formats, this became more complicated in this phase of the meeting because conversational turns involved all parties and mostly consisted of assertions and statements. These turns did not invite confirmation, therefore not qualifying as knowing formatted questions. Knowing formatted questions were coded as those assertions that were responded to, whether that be agreement or disagreement. Coding followed the same process used for Meetings One, Two, Four and Five.

The number of questions asked in this phase of Meeting Three was higher than in the other meetings. The offender was asked more questions in this phase of the meeting than any of the other offenders. Dave was asked 33 questions out of the 39 questions asked in this phase, showing that he was asked to reveal more. Table 3 demonstrates the number of knowing formatted questions asked in this phase of the meeting, highlighting who they were directed at.

Table 3: Number of Knowing Formatted Questions Asked in the Seeing Things Differently Phase	
Facilitator directed to the **offender**	3
Professional directed to the **offender**	9
Offender directed to the **professional**	6

In Meeting Three, the offender asked three knowing formatted questions and directed them at the professional, showing a difference in the participation rights of the offender in this phase in comparison to the offenders in the other meetings. There was only one continuer provided in the 'seeing things differently' phase and this was by Denise and directed at Dave. In comparison to Meetings One, Two, Four and Five, this was a significantly lower figure. This demonstrated that the conversational turns between all parties were shorter and did not require the continuers needed for longer turns.

This section will start by examining how the 'seeing things differently' phase was introduced which fell exactly where offenders in the other meetings were asked if they had anything to say in response to hearing directly from victims. Esther and Denise continued to try and get Dave to understand impact which was an objective than ran through every phase of this

meeting. Dave was continuously questioned or persuasively encouraged to re-narrate his account in a way that met the objectives of the restorative justice meeting. This section will examine how Dave responded to Esther and Denise and whether reparation was achieved, making comparisons to the other meetings.

8.5.1 Does It Make You See Things Differently?

The following extract involves Esther initiating a new turn following the completion of Denise's talk in the professional account. Esther summarised what Denise had said, further emphasising the 'impact' that cannabis has on others.

```
Example 52 - Meeting 3: 674-697
    674  Esther  It's really interesting Denise (.) the
    675          examples that you've given cos (.) what (.)
    676          what it's shown me is that there are
    677          individuals who are affected by drugs so (
    678          (.) your parents (.) your sisters (.) are
    679          directly affected so although you said it's
    680          just wee:::d (.)  but look at the
    681          impact that just wee:::d has had (.) on
    682          your family ⌐but then we've also got⌐
    683  Dave                    └But it also has differe┘nt
    684          impacts doesn't it on everyone else (.) do
    685          you know what I mean=
    686  Esther  =We've then got this idea of communities
    687          being (.) affected by it (.) and we've got
    688          vulnerable people going to food banks who
    689          (.) you know (.) trying just to actually
    690          get enough food to eat (.) who get drawn
    691          into (.) this (.) and we're still only
    692          talking about weed (.) we're not talking
    693          about any of the sort of serious (.)
    694          heavy ⌐drugs⌐
    695  Dave          └Class┘ A's and all that=
    696  Esther  =Yeah=
    697  Dave    =I know=
```

Esther provided a summary (lines 674-682 and 686-694) reflecting what Drew (1992) referred to as the 'power of summary', showing that she as the questioner held control over the conversation (Sacks, 1992). Esther had the 'first rights' to pull together the information offered by Denise and 'draw conclusions' (Drew, 1992, p.507). This summary provided an interpretative framework that attempted to achieve the institutional agenda of promoting an understanding of impact. Although Esther started by directing her turn at Denise (line 674), the recipient of this summary was Dave, demonstrated when she said, 'so your parents (.) your sisters' were 'directly affected' (lines 678-679). Esther claimed to have learnt from Denise's professional experience about the impact cannabis had on others, leading her to confidently conclude that Dave's family were affected. This assertion demonstrated Esther's epistemic stance which was responded to by Dave with a cooperative overlap in agreement (683).

The primary form of asymmetry used by Esther was her ability to assert an interpretative framework that promoted understanding about certain statements and challenged what had been said to prevent damaging interpretations (Thompson, 2017). Esther challenged what Dave had said about 'just wee:::d' (line 681) and emphasised the impact that it was having on 'vulnerable people', 'communities' (lines 686-691) and his 'family' (line 682). She was creating a new interpretive framework that aligned with the objective of restorative justice which involved promoting an understanding of impact. Esther orientated knowledge asymmetry in the design of her talk (Drew, 1991) by referring to what Denise had shared as a professional who 'knows' about the impact cannabis has on others. Esther utilised this knowledge and conveyed it to Dave in an assertive manner. Dave aligned with these knowledge claims by agreeing to what was being said. The knowledge claims of the professional were based on experience in the same way that the knowledge claims of victims were. However, the professional was not directly impacted by the harm whereas the victims were.

The following extract comes immediately after the summary provided by Esther, introducing the next phase of the meeting where she asked Dave if hearing from Denise had made him 'see things slightly differently'.

Example 53 - Meeting 3: 702-741

```
702   Esther   Does it make you see things slightly
703            differently?=
704   Dave     =Yes it does (.) it does (.) not with weed
705            (.) though cos weed (.) I only think I
706            think about weed because say cocaine and
707            heroin and all that (.) they all kill you
708            eventually don't they?=
709   Esther   =But look at the stories that Denise's
710            given you ⌜that's we⌝ed=
711   Denise           ⌞Well yeah⌟
712            =yeah I mean and weed you're smoking it (.)
713            and what's the biggest (.) what's the
714            biggest killer out there?=
715   Dave     =I know but no-one's ever (.) I just don't
716            know (.) I've always (.) ⌜I've⌝ always
717   Denise                           ⌞Your⌟
718   Dave     believed that weed one day will be legal in
719            England (.) in a few years say six years=
720   Denise   =It'll never b⌜e (.) it'll never be legal⌝
721   Esther                 ⌞°No I don't think it will°⌟
722   Denise   in this country (.) no=
723   Esther   =But even putting that to one side (.)
724   Dave     That's what I mean (.) when I think there's
725            places in the world (.) there's like 20 odd
726            places now isn't there? Countries or
727            whatever (.) it's legal (.) so how can our
728            country just rule it out?=
729   Esther   =But=
730   Dave     =it's obviously not as harmful as people
731            think is it (.) do you know what I
732            mean? I've always ⌜thought⌝ that though so
733   Esther                     ⌞But put⌟
734   Dave     ⌜but that's just my opinion⌝
735   Esther  ⌞Put that to one side thoug⌟h Dave and just
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167

```
736          think about the harm that it's causing=
737  Dave    =Yeah but if it was legal then all of that
738          would be gone (.) and it wouldn't (.)
739          people (.) other countries have it legal so
740          why not? Do you know what I mean? It'd get
741          the crime rate right down
```

Esther asked Dave, 'does it make you see things slightly differently?' (line 702-703), which was an attempt to see if he had moved in the gradient of knowledge he held from a K- to a K+ position after hearing from Denise. In some instances, the phrasing of this question was apparent in the other meetings alongside the invitation to apologise. There appeared to be two gradients of knowledge in competition in Meeting Three: Esther and Denise's view of cannabis on the one hand, and Dave's view on the other. The question asked in Meetings One, Two, Four and Five at this stage, invited offenders to apologise but, as there was no victim present in Meeting Three, the only way to assess offender restoration was to ask this question. Although Dave initially agreed, he followed on to say, 'not with weed (.) though' (line 704). Esther responded by saying, 'But' (line 709) showing that this was a dis-preferred response and pointed to stories told by Denise, confirming that they were for the purpose of helping Dave see things differently. The stories told by Denise did not have the same effect as the account provided by victims in the other meetings. There was something powerful about hearing directly from the person harmed and being placed in a pre-allocated position to listen with limited participation rights.

Esther and Denise formed an alliance to dominate Dave in a two against one approach, forming one pair of the dyadic relationship. Denise took on the role of a proxy facilitator, trying to get Dave to see things differently. Esther and Denise attempted to interrupt Dave (lines 711, 717, 721, 733, 735) competitively by trying to dominate his turn space and achieve the institutional objective. One interruption was successful (line 735) where Esther over emphasised his name 'Dave' to maintain the floor. Example 53 included a high number of interruptions that occurred over a short period of time, whereas interruptions were less common in Meeting One, Two, Four and Five, showing that these meetings were more formally ordered and managed. Esther and Denise attempted to engage Dave in a concerted

effort of moral persuasion, but they were unsuccessful because Dave did not accept the harm that cannabis caused.

Formal institutional talk in courts, news interviews, classrooms and restorative justice meetings all have a public dimension because there is an 'overhearing audience' to the talk. When victims and offenders attend restorative justice there is a phase in the meeting where they respectively sit outside of the other's story in silence as an overhearing audience. In Meeting Three, the standard triadic relationship of facilitator, victim and offender was reduced to a dyadic facilitator and offender relation, preventing Dave being placed in the position of 'overhearing audience'. The leverage a third party can exert was reduced to a weaker two-party relation and Dave did not hear directly from the person harmed about impact. Dave demonstrated some level of awareness about the impact of his actions in the offender account but with no victim present he did not gain a full understanding.

The other meetings have shown than the addition of the third role to a dyadic relationship completely changes the interaction. The triadic relationship in the restorative justice meetings examined represented one of change due to the 'unifying and separating role of the third party' (Vedel *et al.*, 2016, p.141). In Meetings One, Two, Four and Five, facilitators, victims and offenders all had a 'specific role and activities to perform' (Vedel *et al.*, 2016, p.140). Facilitators questioned offenders, encouraging them to accept responsibility and understand impact. Victims talked about the impact the offence had on them, enabling offenders to hear directly from the person harmed. This resulted in offenders apologising and accepting responsibility. In Meeting Three, Esther and Denise worked together as one role, trying to make Dave see things differently, which was less effective. The next section will examine an instance where Esther and Denise continue to question Dave to help him understand impact, showing that this objective had still not been achieved at such a late stage in the meeting.

8.5.2 Understanding Impact

The following extract involved Esther challenging Dave by saying, 'can I pick you up on something' which was a continued attempt to help Dave understand the impact of his actions.

```
Example 54 - Meeting 3: 1007 - 1037
    1007  Esther  But if (.) can I pick you up on something
    1008          there so if there's nothing wrong with weed
    1009          (.) and it's just a plan:t and I'm just
```

```
1010              picking up some of the things you've said
1011              through the last sort of hour=
1012  Dave       =Yeah=
1013  Esther     =why would you mind your sister's smoking
1014              it? You know if your sister (.) your
1015             ⌈older sister⌉
1016  Dave       ⌊No I' not mi⌋nding them smoking it (.)
1017              it's just they have never seen weed with
1018              their own eyes and when the police come
1019              that day they brought ⌈it a⌉ll down from
1020  Esther                            ⌊Yeah⌋
1021  Dave       where it was ⌈and just ⌉ threw it in front
1022  Denise                  ⌊You can't⌋
1023  Dave       of them=
1024  Denise     =You can't blame the police though=
1025  Esther     =No=
1026  Denise     =because if you didn't have it in the house
1027             ⌈the police wouldn'⌉t have been able to put
1028  Dave       ⌊Yeah I know I know⌋
1029  Denise     it down there=
1030  Dave       =Yeah I know I know=
1031  Denise     =and that's a lot about what it's about in
1032              it (.) it's about accepting responsibility
1033             ⌈and saying⌉
1034  Dave       ⌊Yeah cos I⌋ took it there (.) you know
1035              what I mean (.) even though I never shown
1036              it them=
1037  Denise     =Mm=
```

Esther challenged Dave, 'can I pick you up on something?' (line 1007), which showed that throughout the meeting she had been listening to what Dave had said and assessing it for adequacy. Esther's epistemic status enabled her to select the substance of what had been said and challenge it to try and create a new interpretative framework (Thompson, 2017). Esther asked why, if Dave thought cannabis was completely fine, he would have any problems with

his sisters smoking it? (lines 1007-1015). Several interruptions followed this challenge (lines 1016, 1022, 1028, 1034) and in conversations, whilst some interruptions demonstrate cooperation and rapport, referred to as cooperative overlaps, others claim immediate control of the discourse. In Example 54, all the interruptions were competitive because they intended to disrupt 'the turn space occupied by another, and to generally interfere with the projected form, taking 'ownership' or what was being said' (Goldberg, 1990, p.884) and having their beliefs and experiences acknowledged as superior to others.

Unsurprisingly, the outcome in Meeting Three was comparatively different from Meetings One, Two, Four and Five. In Meeting Three, Dave did not demonstrate an understanding of impact and the emphasis of the discussion was on taking drugs not selling them, despite him committing both crimes which resulted in a limited focus on responsibility. The lack of institutional order in Meeting Three resulted in Esther's epistemic status being less effective, resulting in Dave not aligning with information that was emphasised or challenged; instead, his equal participation rights enabled him to interrupt and initiate new turns. In the other meetings, the facilitator was pre-allocated to ask questions, placing her in a position to emphasise and challenge what had been said whilst offenders were pre-allocated to respond. often agreeing to a new narrative.

Esther and Denise attempted to help Dave see things differently and accept the harm caused by his actions, without the constraints produced by the specialised turn-taking procedures and pre-allocated roles, making the institutional task difficult to achieve. Even without a victim present, the informal nature of the meeting did not place Dave in a position to listen to Denise; instead, he was an active participant, co-constructing her narrative and demonstrating equal participation rights. Dave was not placed in a position to speak whilst being listened to by a person he had directly harmed which, if it had happened, may have resulted in his talk reflecting responsibility and a consideration of impact. The absence of formal talk prevented the 'possibility of stable trajectories of action and responsive action through which goal-orientated projects' were 'launched and pursued through talk in interaction' (Schegloff, 1988, p.98-99).

When the meeting was ending, Dave continued to argue his point that cannabis was not harmful by comparing it to alcohol. The following extract shows Esther closing the meeting by saying, 'I think we're probably done here'.

```
Example 55 – Meeting 3: 1120-1126
   1120  Esther  Okay (0.2) I think we're probably done here
   1121          (0.2) I think Dave (.) I mean are you able
   1122          to see that things that you've done (.) the
   1123          choices you've made (.) the decisions
   1124          you've made (.) have caused harm to
   1125          people?=
   1126  Dave    =↑Yeah
```

Esther promoted sequence closure by using an acknowledgement token, 'okay' (line 1120), concluding, 'I think we're probably done here' (line 1120). Esther's talk was a strategy to affirm her epistemic status. Esther then put a knowing formatted question to Dave, asking whether he could see that the choices he had made had, 'caused harm to people' (lines 1121-1125), inviting Dave to agree, which he did in a latched response (line 1126). The disagreements and interruptions in Meeting Three reflected competing attempts to establish epistemic status. This statement was one last attempt from Esther to persuasively re-narrate Dave's account in a way that aligned with the restorative justice objective that involved accepting the harm caused.

8.6   Conclusion

The talk in the offender account was consistent across the five meetings, involving specialised turn-taking procedures and offenders were restricted to answering questions asked by the facilitator. The talk of offenders was consistently scrutinised with the purpose of achieving the objectives of accepting responsibility and gaining an understanding of impact. The remainder of Meeting Three appeared to be more informal than the other meetings examined. The question-answer framework was less apparent in the professional's account; instead, Denise and Dave engaged in a conversation. Dave's participation rights were not so restricted, and he could initiate his own turns, and cooperatively overlap Denise's talk. In the 'seeing things differently' phase, Dave was asked more questions than offenders in the reparation phase of the other meetings. There was no victim present, therefore questions were not directed at anyone other than Dave. There was no time out for Dave to just listen and reflect on the victim's recounting of their experience. The pre-allocated listening role was removed from this meeting and with it the chance to reflect on the offence and to do the

reparative and remedial work, contributing to the more openly confrontational character of some of the talk in Meeting Three. The talk in the other meetings was pre-planned, re-enacting the questions set out in the script, and followed a specialised turn-taking procedure, making the talk more formal in nature. Dave was not given the opportunity to repair the harm by apologising because no victim attended and, because the meeting was focused on trying to persuade Dave that he was a victim, an attempt to get him to apologise to himself would have seemed absurd. The most that could be hoped for in this meeting was a recognition of erroneous belief and an expression of regret for previous deeds.

These factors had a direct impact, resulting in institutional objectives not being achieved. Esther and Denise attempted to encourage Dave to accept responsibility and gain an understanding of the impact of his actions. The crime that Dave committed made him the victim and offender; therefore, encouraging him to see things differently involved looking at the impact this had on himself as well as others. Esther and Denise tried to persuade Dave that he was a victim. They wanted him to develop and accept a narrative of self-harm, which he refused to do throughout. Esther and Denise were unsuccessful in achieving these objectives mirroring findings from Campbell *et al.* (2005) who revealed that direct input from victims had a greater impact on young offenders in comparison to input from victim representatives. Denise could have arguably been a victim representative because she was there to use her professional experience to emphasise the impact that taking and selling drugs had on people. Without the constraints of the specialised turn-taking procedures and the pre-allocated roles, Dave was not placed in a position to respond to questions or statements that emphasised or challenged what had been previously said. Instead, Dave equally participated in the talk, resulting in his disagreements with, and challenges to, Esther or Denise. Dave accepted responsibility for what he did, but he developed justifications for his behaviour (Scott & Lyman 1968), arguing that cannabis should be legal and that it was not harmful. In other meetings, all offenders accepted that their behaviour was wrong and tried to provide excuses for it (Scott & Lyman, 1968) and it was Esther's task to move the offenders from excuses to acceptance of responsibility. A problem with Meeting Three was that the absence of the victim role meant that it could not get beyond the confrontational format of competing beliefs. It is important that victims attend the restorative justice process because understanding impact is more effective when hearing directly from the person harmed. The formal order of the talk is an important part of the restorative justice process because it awarded facilitators more opportunity to persuasively re-narrate the offender account, making

what was said fit for context. Meeting Three demonstrated that the limited constraints placed on the interaction, and the absence of a victim, made it difficult to achieve the institutional objective. This may have been more effective if the specialised turn-taking procedures and pre-allocated roles were apparent alongside hearing directly from the person harmed.

Chapter 9

Conclusion

9.1 Introduction

Firstly, I will start by revisiting what this project set out to achieve by identifying the questions used to guide the analysis. I will then provide an overview of the findings demonstrating how the research questions have been answered. I will demonstrate the contributions that this project has made to existing knowledge, referring to previous social scientific investigations. Following this, I will identify any implications arising from this study, identifying some topics for future.

9.2 Research Aims and Objectives

This thesis set out to examine the talk that occurred in restorative justice meetings because there was an identifiable gap in current social scientific investigation in this area. The aim of this study was to examine the restorative justice meetings as a form of institutional talk, identifying what made the talk institutional and the impact this and conversational asymmetry had on achieving objectives. Restoration was identified as the key objective of restorative justice (Braithwaite, 1996; Doolin, 2007; Zehr, 2014). This project examined the talk, identifying ways that offenders were encouraged to accept responsibility and demonstrate an understanding of the impact of their actions, how victims were given the opportunity to express themselves and how the core sequence of apology-forgiveness (Retzinger & Scheff, 1996) manifested itself in the talk. The following questions were used to guide this analysis:

1.) What institutional objectives were being achieved in each phase of the meetings?
2.) What was formal about the talk itself?
3.) How were questions asked?
4.) How were questions answered and responses managed?
5.) What happened when institutional order was not adhered to?

The next section will look at how these questions were answered throughout this project.

9.3 Research Findings

This project identified structured phases that were apparent in the restorative justice scheme researched, matching findings from Zappavigna and Martin (2018). These phases consisted of the offender account, the victim account, and the reparation phase. This section will examine the findings from each phase of the restorative justice meeting and will conclude by examining findings from Meeting Three, imitating the structure of the thesis.

My findings revealed that offenders were persuasively encouraged through talk to be accountable. This was achieved through the question-answer framework. The talk of offenders was heavily scrutinised by facilitators who assessed their responses for adequacy. Offenders were challenged and persuasively encouraged to re-narrate their account, making it fit for the restorative justice context. There is less emphasis on the accountability of offenders in restorative justice literature; instead, attention is given to repairing the harm and the offender's reintegration into the community (Daly, 2002). According to Daly (2002) offender accountability is a form of retributive justice and focusing on it would not match advocates' claims that restorative justice stands in opposition to retributive justice. My findings have demonstrated that accountability was a major focus for offenders in the restorative justice scheme examined in this research. The ideal of restorative justice is that participants who attend speak freely but the findings from this research confirmed those reported by Cook (2006, p. 121) who revealed that offenders were 'coaxed' into explanations of accountability and their own explanations were 'contested, rebuffed or dismissed' showing the 'disempowerment' of speakers. This showed that participants were not able to talk freely and domination was apparent in the process.

The fixed identities of victim and offender created power imbalances (Gerkin, 2009) and this research revealed that offenders were placed in a position to be answerable, somewhat resembling the talk apparent in courtroom settings (Drew, 1992), particularly when facilitators made statements that invited offenders to agree or selected relevant information from previous talk to formulate a summary. This could restore the power lost by victims when the crime occurred, empowering them in the restorative justice meetings through talk whilst at the same time placing offenders in the least powerful position in the interaction. These findings indicate that at least some restorative justice schemes are not as completely

different from the courtroom context as advocates claim; and for offenders, the standards set for the principle of non-domination (Braithwaite, 1996) were not apparent.

Conversation analysis allowed a comparison to be made between the talk of victims and offenders, comparing the number and types of questions asked of them and the continuers indicated whether talk was supported or restricted. Findings revealed that victims were given the opportunity to have their say by being asked open questions and having their talk supported by continuers being provided. Victims directed turns at offenders, sometimes offering them advice, demonstrating their power in the interaction. Despite support for victims' talk, they were still expected to say certain things. This was revealed when the victim in Meeting Five attempted to minimise the impact of the offence, resulting in the facilitator using the same methods of conversational domination demonstrated in the offender account phase. Offenders' talk was heavily scrutinised, highlighting the finer details of the limited participation rights found in previous research which showed offenders talked the least in the interaction in comparison to facilitators and victims (Gerkin, 2009; Jacobsson *et al.*, 2012). Facilitators dominated exchanges (Hoyle *et al.*, 2002) because their institutional role placed them in a position to ask most questions and assess the answers given for adequacy. When answers did not meet the agenda, facilitators challenged participants to recreate their narrative.

These findings demonstrated an imbalance in participation that restorative justice advocates wish to avoid (Braithwaite, 1996). The restorative justice process should empower the participants by providing an arena whereby the stories of both victims and offenders can be heard (Braithwaite, 1996). Rossner (2013) highlighted the importance of balance as a ritual ingredient in the restorative justice process. Balance was measured by examining how much offenders contributed to the interaction and whether they were dominated in the process. Rossner (2013) found a link between balance and ritual outcomes such as solidarity, emotional energy, and reintegration. Reintegration was measured based on the approval offenders received in the process and solidarity was measured based on apologies and demonstrations of remorse from offenders and forgiveness from victims. When balance was less apparent in the conferences examined, lower levels of reintegration, solidarity and emotional energy occurred. The ritual outcomes of solidarity and reintegration were found to have an impact on whether participants were rearrested and when offenders were not rearrested, high levels of reintegration and solidarity were apparent in these conferences. My

research confirmed that offenders held the least power in the interaction in comparison to the other participants. Despite these findings, when levels of satisfaction were measured in other projects, they revealed that '80 to 95% of victims and offenders said that they were treated fairly and had their say' (Daly, 2002, p.69), contradicting the findings from my own study. Applying conversation analysis to the restorative justice meetings in this scheme revealed that behind the politeness and the institutional order of the talk, the conversational treatment of offender and victim was markedly different. My own research moved away from the perceptions of the participants involved and examined the finer details of the talk which demonstrated unequal treatment and unfairness within this restorative justice scheme. Rossner (2013) previously revealed the importance of conference dynamics in achieving ritual outcomes and reducing reoffending. If balance is not apparent in the restorative justice process, as my own research reveals, then this will have less impact on achieving ritual outcomes and reducing reoffending.

Conversation analysis revealed that when comparisons between the talk of victims and offenders were made, victims had more opportunities to express themselves than offenders. Instances in the reparation phase were found where victims advised offenders about future behaviour and suggested ways to make reparation, confirming findings from Morris *et al.* (1993) that victims reported having a voice in outcomes. Zehr (2014) asked whether victims were being used to help offenders on their journey of transformation and my findings revealed that they were. In Meeting Five, when the victim attempted to minimise the impact the offence had on him, this talk was challenged and persuasively re-narrated, highlighting the purpose of this account being for the benefit of the pre-allocated listening offender. This showed that offender restoration was the main objective of this restorative justice scheme, perhaps because this worked towards achieving the broader objective of reducing reoffending rates. This reflects similar findings to those reported by Zervona (2007, p.70) where victims felt that their reasons for involvement were 'to benefit offenders' and contribute to their rehabilitation.

My findings revealed that offenders were encouraged through talk to accept responsibility, understand impact, and apologise and it is assumed that these steps were set in motion to prevent future reoffending. When focusing on the broader objective of restorative justice, the general aim of the probation service is to reduce reoffending which explains why offender restoration was the main priority in this restorative justice scheme. Similarly, Zappavigna and

Martin (2018) examined how participants interacted with each other through spoken discourse and new identity scripts were negotiated with the intention of promoting offender reintegration and future law-abiding behaviour. These identity scripts were negotiated by the facilitator and focused on offender responsibility. The assumption of their study was that when scripts were negotiated, offenders would then amend their future behaviour.

The emerging standards set by advocates for restorative justice are remorse and apology for offenders and forgiveness for victim's, but these do not always occur, and it has been argued that these should not be encouraged (Braithwaite, 1996). My research has shown that the first question asked in the reparation phase was interpreted by offenders as an invitation to apologise. When apologies from offenders were not directed at victims and did not include demonstrations of remorse, facilitators pursued an adequate apology. Apologies were therefore not freely given; instead, they were encouraged and pursued through institutionalised ways of talking, preventing victims from immediately accepting apologies or offering forgiveness. These findings confirmed results from previous research. Hoyle e*t al.* (2002, p.14) found that facilitators extracted apologies from offenders in a 'coercive way' and Rossner (2013) found that formalising the apology in the script lessened the strength of the core sequence. Although apologies were 'almost guaranteed' because they were 'written into the script' (Rossner, 2013, p.101), in less successful conferences, 'less than half' were accepted and were 'interpreted by victims as insincere' (Rossner, 2013, p.102). Findings from RISE and SAJJ were similar, concluding in both instances that forgiveness was less apparent in conferences than apologies.

This research identified reasons why there was 'a gap in which apologies' were 'somehow not engendering forgiveness' (Blecher, 2011, p.112). The specialised turn-taking procedures and pre-allocated roles reduced the likelihood of offenders offering a naturally occurring apology and the invitation to apologise from facilitators resulted in unpredictable responses from offenders. Offenders would either direct their apologies at victims or respond by directing them at facilitators. When offenders directed apologies at victims, victims responded with forgiveness. When offenders directed apologies at facilitators, responding to the question-answer framework, victims were not placed in a position to offer forgiveness. Rossner (2013) previously acknowledged the importance of balance in the restorative justice process, arguing that this contributed to the ritual outcome of solidarity which was based on the core sequence of apology and forgiveness. Therefore, it is important to acknowledge that

the presence of balance and the management of apologies through talk contributes to the achievement of a successful apology-forgiveness sequence.

There has been a call for further research that examines the core sequence of apology and forgiveness to promote an understanding of why this sequence is sometimes not achieved (Hayes, 2006). The current project identified why this core sequence did not always occur. Apology work is most successful when done privately between victim and offender (Tavchis, 1991). This does not happen in the restorative justice meeting because the facilitator is present, sometimes with the added addition of other participants who support those involved. The presence of the facilitator reduces 'the quality of the transaction between offender and victim' (Hayes, 2006, p. 378) as do the institutionalised ways of talking. There has been limited research conducted to date that examines the restorative justice process where the victim is absent. Claims have been made that partial restoration could still occur in meetings like this (Doolin, 2007; Zehr, 2014), with the offender accepting responsibility and demonstrating an understanding of the impact of the offence. In Meeting Three, a victim did not attend, and the talk was less formal. Using conversation analysis revealed that without institutional talk, asymmetry, and no victim present, achieving partial restoration was difficult. Campbell *et al.* (2005, p.69) found that when there was no identifiable victim this 'proved problematic', particularly as it related to offenders understanding that the victim was the general public. The attendance of an identifiable victim would promote the offender's understanding of the impact of the crime. Findings also revealed that victim representatives were less likely to receive an apology and offer forgiveness in comparison to direct victims. Apologies, remorse, and forgiveness were highly related to the type of victim present in the restorative justice process, being more likely to occur in the presence of a direct victim. This study and my own highlight the importance of the victim attending the restorative justice process. I argue that Meeting Three was not a restorative justice meeting because without those features restoration could not be talked into being. Tyler *et al.* (2007) obtained similar findings, confirming that reintegrative shaming was most effective when a victim was attending because feelings like guilt and remorse were easier to work with in those instances. The findings from my research demonstrate another instance whereby the theory of restorative justice was different to actual practice. It is important to test these claims about whether partial restoration can still be achieved without the presence of the victim, therefore further research in this area is required. In Meeting Three attempts were made to encourage the offender to accept responsibility and understand the impact of his actions, but these

attempts failed to achieve partial restoration without the presence of a victim. If at least partial restoration cannot be achieved through talk in these circumstances, then these meetings do not qualify as restorative justice because all that is happening is a conversation without the objective of restoration being achieved. It is important to consider the impact a lack of restoration has on achieving the broader objective of preventing future reoffending.

To conclude, the extent to which the meetings in this scheme were restorative will be examined against the core values set out in Chapter 1. The core values of restorative justice were identified as the need for consensual participation, dialogue, mutual respect (Doolin, 2007), non-domination, respectful listening, empowerment (Braithwaite, 1996), equal concern for all involved (Braithwaite, 1996; Doolin, 2007) and a neutral facilitator. In the restorative justice scheme examined, the facilitator closely followed a script whereby victims and offenders were asked questions, prompting them to answer and participate in the process and they were pre-allocated to listen to each other. To a degree, victims and offenders were empowered to have their stories heard in ways that would not be apparent in the traditional court system, but these stories were restricted to meet the restorative justice agenda. Victims and offenders were treated differently therefore equal concern was less apparent. The talk of offenders was restricted and scrutinised, reflecting domination in the process whereas the talk of victims was supported. In Meeting Five, the victim's talk was challenged, resembling the talk apparent in the offender account phase. The facilitator in this scheme could be perceived as not being neutral because of the different ways that victims and offenders were spoken to. However, the difference in treatment could have been related to the differing objectives for victims and offenders. For victims, restoration involved being placed in a position to tell their story. For offenders, restoration involved accepting responsibility, understanding impact and apologising. Therefore, the talk of offenders may have faced more scrutiny because they had more to achieve than victims. Although the facilitator closely followed a script by asking questions, the instances whereby this scheme was less restorative in nature was reflected in her response to the answers given. The facilitator encouraged the agenda to be achieved through talk, but this sometimes resulted in her moving away from the core values of restorative justice. There may have been a broader conflict between her professional orientation as a probation officer and the goals imputed to restorative justice. But this conflict could apply to any restorative justice scheme because every facilitator despite their profession would bring a particular mindset to the process.

9.4 Future Recommendations

Some interesting findings have emerged from this research project. On the one hand, other meeting samples and facilitators need to be examined to assess the generality of the findings which were based on five restorative justice meetings set within the probation service with the same principal facilitator present in each. The nature of conversation analysis does not require a large data set of transcripts because it focuses on the detail of the interaction. However, the assessment of the generality of my findings is needed, enabling stronger claims to be made if other research produces similar results particularly when examining other restorative justice schemes. On the other hand, there have been some interesting processes uncovered that warrant further investigation and these will be examined in this section.

The findings from this research highlighted how offenders' talk was restricted, limiting their participation rights. Offenders were asked knowing formatted questions which partially resemble the questioning style apparent in trials, when being cross-examined as a witness. The claims made that restorative justice stands in opposition to criminal justice involves the idea that offenders are included in the process and have their say. The principle of some restorative justice schemes is reintegrative shaming which involves expressing disapproval for the criminal act whilst promoting reintegration. If talk with offenders in this restorative justice scheme partially resembled talk with offenders in court, then this presents a problem because the court process promotes stigmatic shaming which stands in opposition to reintegrative shaming (Braithwaite, 1989). Therefore, it is recommended that the talk of offenders in restorative and criminal justice processes be examined and compared using the method of conversation analysis. This topic did not fall within the scope of this research but certainly requires further attention.

The restricted participation rights of offenders in the restorative justice process needs further attention on a wider scale. I suggest that a study using a larger corpus applies conversation analysis to restorative justice talk, examining the extent to which offenders are restricted in the interaction in comparison to other participants. This is an important area of focus because balance has an impact on the achievement of the core sequence and reducing reoffending (Rossner, 2013).

Findings led to the conclusion that Meeting Three did not qualify as a restorative justice meeting because restoration was not achieved without the presence of a victim and

institutional talk. Esther did not successfully identify the offence of interest (drug dealing rather than drug use) or the victims (the offender's family, not the offender) until later in the meeting. Other facilitators might have been more successful in reproducing the restorative justice format. It has been claimed that meetings should still go ahead if one participant cannot attend because partial restoration can still occur (Braithwaite, 1996). It would be interesting to see if restoration through talk can be achieved under these circumstances by examining a higher number of meetings that fit this category.

9.5 Conclusion

This research made the single most extensive and sustained analysis of the restorative justice meetings examined in this scheme using conversation analysis, providing insight into how participants co-constructed the institutional character of the interaction. Conversation analysis was used to identify 'how' the institutional objective of restoration was achieved without the presence of directly communicated emotions. Restorative justice in this scheme was talked into being through institutionally organised talk and the presence of a facilitator, offender, and victim. Restoration was achieved collectively and collaboratively. Conversation analysis illuminated key features of the restorative justice process that have not been examined before. Offenders were placed in positions to be accountable for their actions, partially resembling what happens in the court process. Although witnesses in court are asked shorter and more precise questions and there are no continuers and overlaps apparent, offenders are encouraged to be accountable to prevent future reoffending by removing them from society (criminal justice) or by encouraging them to govern themselves following involvement (restorative justice). This shows that despite the differences between court proceedings and restorative justice meetings, there are also similarities; therefore, they do not stand completely in opposition to one another.

Victims were given opportunities to express themselves, but their accounts were used to help offenders understand the impact of the crime by hearing directly from the person harmed, confirming that the main agenda driving this restorative justice scheme was offender restoration, perhaps with the intention of reducing reoffending. The talk of offenders was found to be restricted and scrutinised, limiting their participation rights and resulting in unfair treatment between victims and offenders. This contradicted previous findings (RISE and SAJJ) that revealed high levels of procedural justice in some restorative justice conferences. This is a significant finding because conference characteristics (balance) contribute to the

achievement of outcomes such as the core sequence of apology-forgiveness and beyond that the reduction of reoffending (Rossner, 2013). Interestingly, procedural justice and institutional talk share some commonality as they relate to restorative justice, they both work towards helping offenders amend future behaviour. For procedural justice, promoting fairness in a legal process is said to promote future law-abiding behaviour, based on offenders perceiving the law as legitimate. For institutional talk, promoting offender restoration through talk worked towards the same objective of reducing future reoffending.

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Appendices

University of
Salford
MANCHESTER

27 June 2016

Dear Chris,

RE: ETHICS APPLICATION HSCR 16-42 – Interaction in Restorative Justice Conferences

Based on the information you provided, I am pleased to inform you that application HSCR16-42 has been approved.

If there are any changes to the project and/ or its methodology, please inform the Panel as soon as possible by contacting Health-ResearchEthics@salford.ac.uk

Yours sincerely,

Sue McAndrew
Chair of the Research Ethics Panel

College Research Ethical Approval FILTER Form

No research can be started without full, unconditional ethical approval. There are a number of routes for obtaining ethical approval depending on the potential participants and type of study involved – please complete the checklists below to determine which is the most appropriate route for your research study.

A. Teaching & Learning Research (ROUTE FOR STAFF ONLY) N/A

1.	Is the proposed study being undertaken by a member of UoS staff?	Yes	No
2.	Is the purpose of the study to evaluate the effectiveness of UoS teaching and learning practices by identifying areas for improvement, piloting changes and improvements to current practices or helping students identify and work on areas for improvement in their own study practices?	Yes	No
3.	Will the study be explained to staff and students and their informed consent obtained?	Yes	No
4.	Will participants have the right to refuse to participate and to withdraw from the study?	Yes	No
5.	Will the findings from the study be used **solely** for internal purposes? *e.g. there is no intention to publish or disseminate the findings in journal articles or external presentations*	Yes	No
If you have answered **Yes to all Qs1-5** your study does not require UoS ethical approval as the work sits under enhancing quality of teaching and learning.			
If you have answered **No to any of Qs1-5** you should complete the checklists below to determine which route you should use to apply for ethical approval of your study.			

B. National Research Ethics Service (NRES) N/A

To find out if your study requires ethical approval through NRES answer the questions below. Does you study:			
1.	Involve access to NHS patients or their data, or involve participants identified from, or because of, their past or present use of NHS services?	Yes	No
2.	Include adults who lack capacity to consent as research participants and/or those under 18 years of age.	Yes	No
3.	Involve the collection and/or use of human tissue as defined by the Human Tissue Act 2004? **	Yes	No
If you have answered **Yes to any of Qs1-3** you should complete this application form, for University of Salford ethics review, you should have a response within 4weeks of submission. Once you have UoS approval you can then complete and submit the relevant NHS National Research Ethics Service (NRES) form. (The information from the UoS forms can be transferred onto the NRES forms) For further information and details of how to apply to NRES can be found at http://www.nres.nhs.uk/			
If you have answered **No to Qs1-3** complete the checklist below to determine whether your application is eligible for Fast Track (proportionate) review or full review.			

C. Full versus 'Fast Track' (Proportionate Review)

Does the proposed study:			
1.	Expose participants to high levels of risk, or levels of risks beyond those which the participant is likely to encounter in their everyday activities? These risks	~~Yes~~	No

Title of study: Interaction in Restorative Justice (RJ) Conferences

Names of Researchers: Professor Chris Birkbeck, Professor Greg Smith, Ms Rachel Langford

Invitation paragraph

We would like to invite you to take part in a research study. Before you decide you need to understand why the research is being done and what it would involve for you. Please take the time to read the following information carefully.

Ask questions if anything you read is not clear or you would like further information.

This is an independent study and the findings will help policy makers and academics learn more about the nature of the social interactions that take place within the context of a restorative justice conference.

What is the purpose of the study?

Our main purpose is to understand the details of the social interaction that takes place in a restorative justice conference. Most previous research has studied the results of RJ conferences – how successful are they? Our study asks instead, how do they work? How does what is said by participants during RJ conferences help them to achieve their restorative aims?

Our view is that a better knowledge of what happens in the RJ conference will help to develop improved practical guidelines for the conduct of RJ conferences.

Why have I been invited to take part?

You have been invited to take part in this research project because you have agreed to participate in a RJ conference. We do not wish to interfere with what takes place in your RJ conference itself and you will not be asked to do anything in addition to your normal participation in the conference. The researchers simply want to record the event.

However, in order to record the RJ conference for our research purposes, we need to seek the consent of *all* participants. This is required by both our employer, the University of Salford, and by the ethical guidelines for research developed by the British Sociological Association and the British Society of Criminology.

CONSENT FORM

Title of study: Interaction in Restorative Justice (RJ) Conferences

Names of Researchers: Professor Chris Birkbeck, Professor Greg Smith, Ms Rachel Langford

Please complete and sign this form **after** you have read and understood the study information sheet. Read the statements below and answer yes or no, as applicable in the box on the right hand side.

1. I confirm that I have read and understand the study information sheet version V3, dated 2016_10_27, for the above study. I have had the opportunity to consider the information and ask questions which have been answered satisfactorily.

   Yes/No

2. I understand that my participation is voluntary and that I am free to withdraw at any time, without giving any reason, and without my rights being affected.

   Yes/No

3. If I decide to withdraw **during** the RJ conference, I understand that the recording will not be used in the research. If I decide to withdraw **after** the RJ conference, I understand that I can do this up to one week after the conference has been held, and the recording will be destroyed.

   Yes/No

4. (4a) I agree to participate in the audio recording of the RJ conference

   Yes/No

   (4b) I agree to participate in the video recording of the RJ conference

   Yes/No

5. I understand that my personal details will be kept confidential and not revealed to people outside the research team.

   Yes/No

6. I understand that my anonymised data will be used in the researcher's thesis, a research report and other academic publications and conference presentations.

   Yes/No

7. I agree to take part in the study:

   Yes/No

_____   _____   _____
Name of participant   **Date**   **Signature**

_____   _____   _____
Name of person taking consent   **Date**   **Signature**