



the  
Parole  
Board

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## Restorative Justice

Information for the Parole Board Panel members

1. What is restorative justice?
2. How restorative justice works
3. Restorative justice outcomes

This factsheet provides information to panel members about:

- The principles of restorative justice
- How the restorative justice process works
- Restorative justice outcomes for victims and offenders

## What is restorative justice?

Restorative justice is a voluntary process involving the person who has been harmed and the person who has caused the harm. Trained facilitators work with victims and offenders to support them to talk about what happened, who has been affected and how and what can be done to help repair the harm. This can take place in prison or in the community.

For offenders, the restorative justice experience can be challenging as they are asked to consider the impact of their crime. Through preparatory meetings with facilitators, offenders talk about what happened and who has been affected. If a meeting with the victim takes place, they come face to face with the person they have harmed, and they have an opportunity to hear directly about the impact of their actions and to answer questions. It may be more appropriate to run an indirect process, which will be explained further on.

For victims, the experience of meeting the person who has harmed them can be a big step in coping and recovering from the crime.

Many victims have questions, which the formal justice process does not answer, such as why me?, why my house?, what did you do with my jewellery/laptop/car? If they choose to meet the offender, then they often talk about facing their fears, letting go of anger and feeling more at peace.

Daly's definition<sup>1</sup> is useful:

***“restorative justice is a contemporary justice mechanism to address crime, disputes and bounded community conflict. The mechanism is a meeting of affected individuals, facilitated by one or more impartial people. Meetings can take place at all phases of the criminal process.”***

Restorative justice is a process which can happen at any time following any crime. The offender may be in custody, or have served their sentence and be out on licence. In fact, they may have completely served their sentence. The law allows for pre-sentence restorative justice to take place, and the judge can stay sentencing for up to six weeks while that takes place.

Some victims may not feel ready to undertake restorative justice for several years, others are keen to proceed immediately.

Regional variations in policy mean that some restorative services exclude certain crime types, such as domestic or sexual violence and hate crime.

<sup>1</sup> Daly, K., (2016), 'What is restorative justice? Fresh answers to a vexed questions', Victims and Offenders, 11(1):9-29

## How restorative justice works

### Principles of restorative processes<sup>2</sup>

These principles should underpin all work carried out by restorative justice practitioners:

**Restoration** – the primary aim of restorative practice is to address and repair harm.

**Voluntarism** – participation in restorative processes is voluntary and based on informed choice.

**Neutrality** – restorative processes are fair and unbiased towards participants.

**Safety** – processes and practice aim to ensure the safety of all participants and create a safe space for the expression of feelings and views about harm that has been caused.

**Accessibility** – restorative processes are non-discriminatory and available to all those affected by conflict and harm.

**Respect** – restorative processes are respectful to the dignity of all participants and those affected by the harm caused.

### Restorative questions

The restorative questions are the foundation of any restorative approach. These questions are open and flexible and can be used with offenders, victims and supporters in addressing behaviour, in restorative conversations. They can also be used with individuals in the preparation part of the process.

**What happened?**

**What were you thinking?**

**What were you feeling?**

**Who has been affected?**

**What needs to happen now?**

**What do you need to do now?**

### Preparing for the conference and preparing the participants

The facilitator (best practice is for two facilitators to work on a case together) will meet victims and offenders and introduce themselves, explain their role and the process and purpose of restorative justice. The facilitators usually spend a lot of time listening so that they understand the situation of the victim and of the offender, and the context in which the crime took place.

They seek to understand what happened, how the individuals have been affected and support them to articulate how they feel. With victims, they will support the articulation of questions or their feelings. They will also work with the offender to check that they admit responsibility and to see if they will or can answer the questions. Facilitators are careful not to ‘steal the conference’, i.e. they ensure that expectations are managed but they do not tell each party what the other has said. Preparatory meetings can take place over a few hours, but more commonly over weeks or months.

Motivation for taking part can vary and change as the restorative justice proceeds. An offender may want to simply get out of their cell for a few hours, or be motivated if they think it will impact their sentence or chances of parole. Experienced facilitators will work with both parties to explore the restorative questions and to decide whether it is appropriate to proceed. They will also work to ensure expectations are managed and to work through their motivations and intentions. The principle is always to do no further harm to anyone involved.

Victim and offender supporters are also prepared to enable their participation. Facilitators ensure that all participants are willing to attend and make sure practical arrangements are in place such as travel to the venue, an allocated room, prisoner availability and very importantly, risk assessments, which are continuously updated to reflect changing circumstances and new facts.

Some participants may choose not to have a meeting, and the facilitator will help them to decide or make an informed choice about whether they then opt for a shuttle process (where the facilitators communicate with each party and go between the two to convey messages – usually over a period of time and in separate locations) or a letter exchange, where the facilitators may help the individuals write the letter(s); as long as letter content is judged to be suitable and to do no further harm, best practice is for facilitators to take the letter to the other party and read it out them.

When a meeting takes place, the facilitators will make arrangements for any outcome agreement to be acted upon by relevant parties and agencies, for example, an offender supervisor

<sup>2</sup> Restorative Justice Council, **Principles of Restorative Practice Guidance**, 2015

or manager. After the meeting, the facilitators will debrief with both parties independently immediately following the conference (prison visits permitting). They will also check in some weeks or months later to check on the well-being of the participants and that the outcome agreement has been honoured.

Ground rules are set out at the beginning of a conference, and are bespoke but usually include, listening to what people have to say without interruption, using respectful language, taking time out if required (indicated by a 'T' hand signal). Participants will already have been told about these before the conference, as a part of their preparation.

## Structure of the conference

The structure of the meeting is the same in principle whether it is a one to one conversation with a young person, a restorative justice conference between victim and offender, or a community conference (to resolve community disputes or situations). Participants sit in a circle of chairs (usually with no table although this is sometimes requested by victims), with the facilitators sitting opposite each other; victim and victim supporter, and offender and offender supporter sitting on opposite sides<sup>3</sup>.

**Introductions** The facilitators will introduce all the participants and their reason for attending as well as themselves

**Focus of the meeting** Facilitators will use clear terminology to say what the focus of the meeting will be. This will then help the offender with their account of the incident.

**Ground rules** The ground rules will be repeated, which are also set out in the preparation meetings. This will give the feeling of safety and helps the facilitators to manage the meeting.

**Offender's account** The offender will usually give their account first and the offender being questioned first, instantly allows them to start taking responsibility and also gives the victim and other parties the opportunity to hear the responsibility being taken.

**Victim's account** The victim will now be given the chance to speak. This identifies their importance to the process and empowers them. The offender cannot challenge the account of the victim's feelings and a conflict over the details of the incident is prevented.

**Victim supporters** The victim supporters are invited to come along to the conference to support and follow up with the victim's contributions. By doing this, we are ensuring the importance of putting victims first. When there are more than one victim/victim supporter, the one who has been most affected should speak first.

**Offender supporters** This gives the offender the chance to hear that their own supporters have also been affected by what has happened.

**Other parties** Other parties can include offender manager, police officer in charge of the case or community members who have been affected by the incident. By including other parties, a range of views can be taken into account and highlights that the harm can affect more than just one person.

**Offender's response** The offender has heard all the accounts from everyone in the conference, any expression of remorse is likely to be experienced as more genuine than those made before hearing how the others have been affected.

**Return to victim/victim supporters to find out what can be done to repair the harm** This allows the victim to have a conversation with the offender, share their wishes for reparation and have any questions answered. This can be noted in the form of an outcome agreement.

**Conclusion** The facilitators explain the agreement as appropriate, however they do not contribute to the agreement. After the structured part of the meeting is finished, the facilitators will offer refreshments while they write up the outcome agreement.

**Outcome Agreement** The outcome agreements should be clear. The facilitators should make sure the agreement is signed by both parties and a copy should be given to each person. The outcome agreement is written out by facilitators, while participants take a break. This can include the provision of tea and biscuits and is a moment which may give the opportunity for participants to talk to each other directly outside the restorative circle. It can be a very important part of the process. The facilitators then ensure participants sign the agreement.

**Example of outcome agreements**, which may contain one or more elements, and are always SMART (specific, measurable, achievable, realistic and time-based).

- Offender agrees to write a letter to the victim, via the facilitators, with an update on their rehabilitation in prison after six months.
- Offender admits their responsibility and says sorry.
- Victim states they are pleased with meeting but wants no further contact.
- Victim got their questions answered.

<sup>3</sup> Restorative Solutions (2006), Brief Guide for Practitioners: Restorative Justice in the National Offender Management Service

## Restorative justice outcomes

The outcomes of restorative justice are dependent on the needs of the victim involved and the way in which the process develops. The process, whilst ritualistic and to some extent formulaic does not presuppose the outcomes for the individuals.

It is common for victims to be satisfied with the conference in and of itself. Where an action has been specified in the outcome agreement it is important to victims that they are told if it has been undertaken and completed and if not, the reasons why. Although a victim may be happy with the conference, they may subsequently be unhappy if the outcome agreement is not fulfilled. There are rare cases where a second restorative conference will take place between the two parties to address further questions and to talk more about the impact of the crime. There also instances where victims take a particular and benign interest in the rehabilitation of the offender and support them both inside and out of prison, as in the case of Will Riley and Peter Woolf; and Ray and Vi Donovan (the background to which you can read on the Why me? website).

### Victim survivors

- Evidence shows that victim satisfaction with restorative justice exceeds 85%.<sup>4</sup>
- Victims are often hugely relieved following a restorative process.
- Victims can feel satisfied that they got their questions answered, to have faced the fear, taken control.
- Victims report being able to sleep better at night, feel less traumatised and less guilty.
- Some victims forgive the offender, others do not.
- Apologies may or may not be offered and accepted.
- Victims may be very happy to have met the offender, but do not want to forgive them.
- Offenders may be forgiven but the victim may still believe they should serve their full prison sentence because they may think they will reoffend or simply that they should be punished for what they have done.
- The outcome agreement may simply state that the meeting took place and no further action is necessary.
- It may be agreed that the offender will write to the victim (via their probation officer) to update them on their progress.

<sup>4</sup> Shapland et al., 2004, *Implementing restorative justice schemes (Crime Reduction Programme)*, Home Office; also *Why me? (2017)*, *Valuing Victims (parts I and II)*

### Offenders

- There is strong evidence to suggest that participation in restorative justice reduces reoffending by between 14-27%.<sup>5</sup>
- For many offenders, they are very grateful to have the opportunity to meet the person or people they have harmed.
- Offenders may be able to answer questions from the victim.
- Often the most important part of the process is for the offender to listen to the victim talk about the impact of the crime.
- Offenders can agree to a number of actions to repair the harm, for example, in the case of a community sentence, the offender may agree to cross the road if they see the victim coming the other way.
- On rare occasions, the offender may refuse to sign the outcome agreement or not honour it. This can make the victim feel less satisfied with the process.
- For many offenders, restorative justice can be profoundly moving and an opportunity to reflect on their lives and the actions they have taken.
- Offenders can change their behaviour and attitudes. However, this is not always the case, and nor is it the objective. If the victim is satisfied with the process and the outcome, that can be sufficient.

More information can be found on the Why me? website:

- Films, information and examples, explaining about how restorative justice works.
- Restorative justice case studies featuring victims of crime who have benefitted.
- Fact sheets for restorative justice professionals, and videos explaining how restorative justice works.

Email Why me? at [info@why-me.org](mailto:info@why-me.org) for more information about restorative justice or any questions about this factsheet.

<sup>5</sup> Shapland et al. *ibid*