Restorative Justice
also by Marian Liebmann

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## Contents

**ACKNOWLEDGEMENTS**

**Introduction**
- The purpose of this book
- Personal journey
- The limitations of this book
- The debate on language
- The structure of the book
- Case studies
- Summary of chapters
- Lists of useful resources

1. *What is Restorative Justice?*
- Restorative justice: A definition
- Principles of restorative justice
- Some restorative processes: Definitions
- Benefits of mediation/conferencing
- Restorative justice in the criminal justice system
- Positioning of restorative justice
- Other related processes and services
- Values of restorative justice
- The wide appeal of restorative justice
- Standards in restorative justice

2. *A Brief History of Restorative Justice*
- Victim services in the UK
- Canada (where it all started) and the US
- Conflicts as property: The influence of Nils Christie
- Conferencing: New Zealand, Australia and Thames Valley Police
- Crime and Disorder Act 1998
- Youth Justice and Criminal Evidence Act 1999
- New developments involving adult offenders
- Mediation UK and the Restorative Justice Consortium
- Training and accreditation
- Scotland
- Northern Ireland
- Europe
- Africa, Asia and Latin America
- Chronology
3. Restorative Approaches Involving Victims and Offenders Separately

VICTIMS
- Victim Support 53
- Victim Witness Service 55
- Compensation through the courts 56
- Criminal Injuries Compensation Scheme 56
- Escaping Victimhood 57

OFFENDERS
- Children’s Hearings (Scotland) 58
- Community reparation 59
- Priorities for reparation 62
- Victim awareness work – individual/group 63
- Circles of Support and Accountability for sex offenders 65
- Restorative justice and rehabilitation 68
- Alternatives to Violence Project 68
- Nonviolent communication 69

4. Models of Restorative Justice Involving Victims and Offenders Together

- Victim–offender mediation (direct) 73
- Victim–offender mediation (indirect) 76
- Victim awareness work leading to communication with victims 78
- Community mediation 78
- Victim–offender conferencing 80
- Family Group Conferences 84
  - Child welfare cases 84; Criminal cases 86
- Youth Offender Panels (following Referral Orders) 90
- Acceptable Behaviour Contracts 93
- Peace-making Circles (formerly known as Sentencing Circles) 95
- Retail theft initiatives 98
- Victim–offender groups 100
- Working with more than one model 101

5. Restorative Approaches for the Early Years of Life

- Children, violence and peaceful living 103
- Conflict resolution training for young children 104
- High/Scope problem-solving approach 105
- Self-esteem 111
- Young children at school: Equal voice project 111
- Restorative approaches at home 114

6. Restorative Approaches in Schools

- Whole-school approach 118
- A hierarchy of options 118
Restorative processes 119
1. Whole school 119; Conflict resolution skills 119; Circle Time 121; Mentoring 122; Peer mentoring 123; School councils 123; 2. Minor conflicts 124; Mediation 124; Peer mediation 124; PeerLink 128; Circle of Friends 128; 3. Serious conflicts 129; Mediation 129; Conferencing 131; Restorative conferencing 132; Preventing school exclusions 134; Support Group Method to reduce bullying 135

Restorative approaches in informal situations 137
Using all the processes 138
Lewisham schools 138; Sefton Centre, Liverpool 139; Hampshire Family Group Conferences 139

Government initiatives 140
Safer Schools Partnerships 140; National Restorative Justice in Schools Programme 140; The National Behaviour and Attendance Strategies 140;

Scotland and Northern Ireland 141

7. Restorative Justice with Victims and Young Offenders in the UK 143
ENGLAND AND WALES 143
Crime and Disorder Act 1998 144
Final Warning 145; Reparation Order 147; Action Plan Order 148; Supervision Order 149

Youth Justice and Criminal Evidence Act 1999 150
Referral Order 150

Data Protection Act 1998 154

Local organisation of restorative work 154
Wandsworth Youth Offending Team 154; Somerset Youth Offending Team 155; Wessex Mediation and Reparation Service 156; Kent Mediation 157

Restorative justice in children’s homes/residential units 158

Restorative justice and anti-social behaviour 160
Anti-Social Behaviour Orders 160; Non-punitive approaches to anti-social behaviour 161; Thames Valley Mending Fences project: Community mediation 162; New Forest and Southampton Mediation: Mediation-based assessment 163; Manchester Youth Justice Trust: Family Group Meetings 164; Community mediation services 165

SCOTLAND 165
NORTHERN IRELAND 168
Alternatives 169
Community Restorative Justice Ireland 170
Northern Ireland Youth Conference Service 171
The future for restorative justice in Northern Ireland 172

8. Restorative Justice with Victims and Adult Offenders in the UK 175
Probation-led mediation services 1983–2002 175
The decline of restorative justice work with adult offenders 178
Victim–offender groups 178
Community/independent mediation services 178
Rehabilitation and restorative justice 180
Criminal Justice Act 2003 181
Conditional Cautions 182; Thames Valley Statutory Adult Restoration Service 183
Community Justice Centres 185
Community Justice Panels 186
National Offender Management Service 187
Local Criminal Justice Boards 187

Community service
Inside Out Trust 201; Prison initiatives 204

Victim awareness
Victim awareness/empathy/impact groups 205; Victim Impact Groups, Bristol Prison 206; Cell work 208; Sycamore Tree 208; SORI programme, Cardiff Prison 212

Victim–offender groups
The first recorded group 215; Other victim–offender groups 216; Victim–offender groups outside the UK 217

Victim–offender mediation/conferencing
Special cases 218; Community-based services 219; Young Offender Institutions 220; Brinsford Project 220; Probation Victim Liaison Service 222; Government research project 226; HMP Bullingdon 226; Victim Offender Dialogue in the US 228; Conclusion 229


Conflicts in prisons
Research on conflicts and violence in prisons 233; Restorative justice and bullying 234; Restorative anti-bullying procedure at a Secure Training Centre 235

Mediation for prison offences and disputes
Adjudications 237; Resolving conflicts 238; Peer mediation training in Portland Young Offender Institution 239; Juvenile Correctional Institution in Serbia 241; Prison staff mediation services 243

Building relationships in prison
Communities of restoration: APAC 244; Challenge to change – Kainos Community (England and Wales) 245; Prison therapeutic communities 247; Alternatives to Violence Project 247

Restorative prisons
The concept of restorative prisons 249; One prison’s move towards a restorative culture: HMP and YOI Cornton Vale 250; Belgium: Restorative justice in Prisons project 251

Working in custodial settings
Issues and problems 253; Ten golden rules 255; Conclusion 255

11. Restorative Justice Around the World

NORTH AMERICA
Canada 259
United States 260

AUSTRALASIA
Australia 267
New Zealand 268

EUROPE
European Union Council Framework Decision 268
Restorative Justice in Europe

Austria 269; Norway 269; Belgium 271; Poland 271; Czech Republic 271; Russia 272; Serbia 272

AFRICA

Uganda: The Children Statute 1996 273
African Transformative Justice Project: Nigeria, Ghana and the Gambia 274
Rwanda 275
South Africa 275
LATIN AMERICA

ASIA 276

UN RESOLUTION 2002 278

12. Restorative Justice in Complex and Sensitive Cases 283

DOMESTIC VIOLENCE/ABUSE 283

United Kingdom 284

Plymouth Mediation 285; Family Mediation 286; The Daybreak Dove Project 286

Canada 288
South Africa 288
Thailand 290
Austria 290
Finland 293
North Carolina, US 294
SEX OFFENCES/SEXUAL ABUSE 295

United Kingdom 296

Probation: Meetings between sex offenders and victims 296; Working with adolescent offenders 296; The AIM project 298; Family Group Conferences 299; Circles of Support and Accountability for sex offenders 301

Canada: Aboriginal Healing Circles 301
South Africa 302
Denmark: Mediating rape cases 303
HATE CRIME 304
Southwark Mediation Centre Hate Crimes Project 305
CALM Mediation Service Hate Crime Project 306
Aik Saath 307
The police and Youth Offending Teams 308
Mediating serious hate crime 309
GANGS 309
INDIRECT WORK 314

13. Issues in Restorative Justice 319

When restorative justice does not work out 319
Voluntarism in restorative justice 323

Reparation 324; Meetings between victims and offenders 324; Different stages of the criminal justice system 325

Shame 326
Forgiveness 327

The Forgiveness Project 328; Forgiveness in cases of serious crime: Victims 330; Forgiveness in cases of serious crime: Offenders 331; Forgiveness and restorative justice 332
14. Research: A Selection

Research in restorative justice 335
Meta-analyses 336

Does restorative justice prevent or reduce offending? 339
- UK 339; Austria 341; Belgium 341; Germany 342; US 342; Canada 343; Australia 343; New Zealand 343

Do victims and offenders find the process helpful and fair? 344
- UK 344; Ireland 349; Other European countries 349; US 349; Australia 349

Are agreements about compensation and reparation fulfilled? 351
- UK 351; Canada 352

Is restorative justice cost-effective? 352
- UK 353; US 353; Canada 353; New Zealand 354

Victim–offender groups 354
- UK 354; US 354

What works in implementing restorative justice? 355

15. Restorative Justice After Large-Scale Violence or Oppression 361

Nuremberg trials 361
International Criminal Courts 362
- International Criminal Tribunal for the former Yugoslavia 362; International Criminal Tribunal for Rwanda 362; International Criminal Court 362

Truth Commissions 363
South African Truth and Reconciliation Commission 363
- Human Rights Violations Committee 364; Reparation and Rehabilitation Committee 364; Amnesty Committee 365; Healing of Memories Project 367

Rwanda: Genocide 367
East Timor: Reparation 369
Latin America: The ‘Disappeared’ 370
- Argentina 370; Chile 370; Guatemala 371; Peru 371

Northern Ireland 372
- Healing of Memories Project 372; Llve Project, Glencree Centre for Reconciliation 373; Healing Through Remembering Project 374

The Balkans 375
- Serbia: State initiatives 375; Balkans: Civil society initiatives 375; Videoletters Project 377

Mixing retributive and restorative approaches 379
- Sierra Leone 379

Factors leading to successful Truth and Reconciliation Commissions 379
Truth and Reconciliation Commissions and restorative justice 380

16. Arts Approaches to Restorative Justice 383

DRAMA APPROACHES 383
Theatre plays 383
Drama interludes in conferences 384
- Conference on restorative justice 384; Young people perform drama at a conference 385
Taking plays into prisons 386
- Bristol Prison Project 386; Role play 388
Youth Offending Team Reparation Projects: Theatre and video 389
- Theatre 389; Video 390
VISUAL ARTS APPROACHES
Victim impact work 392
Working with offenders on their offence 397
Art work in reparation to victims 398
Art work in community reparation 404
Restorative approaches in schools using art 406
MUSIC APPROACHES
Music in reparation to victims and the community 407
Music in conflict resolution 408
ARTS APPROACHES AFTER LARGE-SCALE VIOLENCE
Visual art in Healing of Memories workshops 409
Memorial exhibitions 410
Arts approaches bringing opposing sides together 415

Postscript: Growing Points
Existing areas of growth 420
Possible areas of expansion 420
Acceptance of restorative justice 422

APPENDIX 3: GLOSSARY 431
APPENDIX 4: FURTHER READING/RESOURCES IN RESTORATIVE JUSTICE 441
APPENDIX 5: ORGANISATIONS AND WEBSITES 447
APPENDIX 6: INDEX OF CASE STUDIES 455
SUBJECT INDEX 460
AUTHOR INDEX 469

List of figures and tables
Table 1.1 Retributive and restorative justice 32
Figure 6.1 Jigsaw diagram – whole-school approach and constituent process 119
Figure 16.1a Victim – before 393
Figure 16.1b Victim – after 394
Figure 16.2a Shit 394
Figure 16.2b Gutted 395
Figure 16.2c Shocked 395
Figure 16.3 Business victim – before and after 396
Figure 16.4 Victim in anger and pain 396
Figure 16.5 Comic strip of offence 397
Figure 16.6 Mother and child 400
Figure 16.7 Mosaic 401
Figure 16.8 Anti-racist hand 402
Figure 16.9 Weaving 403
Figure 16.10 Mural for adventure playground 405
Figure 16.11 Hajra in the snow 405
Figure 16.12 Throne of Weapons 412
Figure 16.13 Genocidaires, by Helen Wilson 413
Figure 16.14 From ‘Four Avega Women’, by Helen Wilson 414
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And to Mike Coldham who read every chapter at the very end for errors and to provide an outside view.
Introduction

The purpose of this book
This book explains the philosophy of restorative justice in clear language, and shows how it can help restore people after harm has been caused, whether in a family, school, community, criminal justice or prison context. It draws on the practice of many projects throughout the UK, and also looks at its use in other situations worldwide. For restorative justice is now a global movement.

The book is designed to fill the gap between the introductory texts on restorative justice and those examining the many complex issues around its implementation. So it covers a broad field and explains how restorative justice works in different contexts. The inclusion of many case studies shows how these principles work out in practice. It is not a ‘how to’ book – there are manuals and handbooks for this, although more would be welcome.

I hope that this book will be useful to practitioners of restorative justice, to people coming into the field, and to the increasing number of professionals who need to know about it because it impinges directly or indirectly on their work. This includes all criminal justice professionals and lawyers, teachers, social workers, psychologists and others working in the caring professions. As crime is always on the agenda as a ‘hot topic’ for public debate, I hope that it will also be useful for interested members of the public.

Personal journey
My personal journey to and with restorative justice has been an interesting one. I started my professional life by teaching in a somewhat demoralised secondary school, where conflict was rife. I moved on to a calmer job working on materials for schools, taking the opportunity to gain experience of evening work in youth clubs and inner city educational schemes for adults. I went on to run the educational side of a new day centre for ex-offenders, and became familiar with the world of offenders and of criminal justice. At no time did we think very much about victims of crime.

Then I worked as coordinator of a large local Victim Support service. I was curious to learn about ‘the other side of the coin’ but had not anticipated just how my eyes would be opened to the pain and suffering many victims experience. It seemed, however, a parallel universe to the offender world, with few links. So when a friend of
mine told me of a weekend course in mediation skills in London, I was immediately interested. My passion for mediation dates from that course in 1984.

My next step was to undertake the social work (probation option) course. My first post was in a probation field team, but I could no longer work with offenders in the same way as before, because at the back of my mind were always questions about the victim; and so I developed ways of working with offenders on victim awareness, now common practice. I also undertook (with great caution) some victim–offender mediations.

Around this time I discovered and joined Mediation UK, the national umbrella organisation for community, schools and victim–offender mediation services in the UK. From 1991 to 1998, I worked for Mediation UK, first as director for four years, then as projects adviser working mainly on restorative justice issues as the new Labour government became interested. From 1998 I have been working as an independent trainer and consultant in restorative justice, in the UK and in several other parts of the world.

My current work has given me many perspectives on restorative justice and the opportunity to see how it is spreading around the globe. An increasing number of countries are now aiming to implement restorative practices in their criminal justice systems. There are many variations but the underlying philosophy is the same.

Clearly I am an enthusiast, although I hope also realistic about the limitations of restorative justice – and, more important, the conditions required for it to flourish.

The limitations of this book

This book does not argue ‘the case for restorative justice’ as that has been done elsewhere. Rather, it aims to show how it works in a variety of contexts, so that readers can get a ‘feel’ for it and see how many applications there are. To this end, all the case studies in most of the chapters are ones where restorative justice has worked. However, there is a section in Chapter 13 giving examples of where it has not worked, together with possible reasons.

The book has taken five years to write (2001–2006), with a few amendments in early 2007 – far longer than I imagined. These years have provided some of the most exciting progress in restorative justice, so this book has been a ‘work in progress’ in a field that is changing all the time. Although I have updated most of the passages during the last year, with new information and interviews, by the time the book is published some parts are bound to be out of date. However, I hope that the breadth of work included will mean that the book will be useful for many years to come.

The field of restorative justice is now so wide that no one person can know all about it. So this book inevitably reflects the limits of my knowledge, as well as my particular interests. This means that I have included one chapter on schools and two chapters on prisons – although undoubtedly there is far more restorative work going on in schools than in prisons. Similarly, one chapter each on restorative justice with young people and with adults does not represent the fact that there is currently far more such work happening with young people than with adults (although this could change).
To ensure accuracy, each draft chapter has been read by at least two people in the field. This has enabled me to correct many small points, but I am sure there will be some that have escaped all our scrutiny – and some where practice will inevitably change.

There are also applications that I have not been able to cover, for instance restorative justice in the workplace and restorative approaches to regulation (e.g. health and safety regulations), although they are mentioned in the Postscript. Every book has to stop somewhere.

The debate on language

There are many heated debates in this field. ‘Restorative justice’ has become a term that has worked its way round the world, and more and more people have heard of it. But many people prefer the term ‘restorative processes’ or ‘restorative practices’, especially if the situation has little to do with legal matters. I acknowledge their point but continue to use ‘restorative justice’ because of its world currency.

There are also dilemmas concerning how to describe the participants in restorative justice. Again, many practitioners feel that the words ‘victim’ and ‘offender’ are stigmatising and should be replaced by ‘the person harmed’ and ‘the person responsible’. This is especially true in settings outside the criminal justice context, such as schools. However, when writing about these roles, I have found these formulations can make texts difficult and unclear to read. So I have used the words ‘victim’ and ‘offender’, but would like to emphasise that they are roles in situations, not labels for life. When working in an actual situation, I would use the people’s names rather than any designation – as in many of the case studies.

The other point worth making is that, in many situations, the roles of victim and offender may overlap. Both parties may be victims and offenders. The classic case is one where provocation has occurred and the other party has finally boiled over and retaliated. In other cases people may be victims on one occasion and offenders on another.

Language usage describing organisations changes frequently, especially in the criminal justice field; I have used the names that were current at the time of the work being described.

The structure of the book

There is no easy way to organise a book on restorative justice. The chapters are organised in a mixture of themes and contexts which have a progression but which can also be dipped into separately, depending on the reader’s purpose:

- Chapters 1 and 2: Principles and history
- Chapters 3 and 4: Models of restorative justice
- Chapters 5 and 6: Early years and schools
- Chapters 7 and 8: Young people and adults in the criminal justice system
- Chapters 9 and 10: Restorative justice in prisons
- Chapter 11: Restorative justice around the world
Chapter 12: Complex and sensitive cases
Chapter 13: Issues
Chapter 14: Research
Chapter 15: Large-scale violence and oppression
Chapter 16: Arts approaches

However, this means that there is some overlap between chapters. For instance, the chapter on history overlaps with several other chapters. Youth justice legislation is referred to in Chapters 2 and 4, as well as Chapter 7, where it is the main focus. And some aspects of restorative justice could be described in the chapter about adults, or in the chapter about complex and sensitive cases, or in the chapter on prisons. To this end, I have tried to include cross-references where appropriate.

It has also been difficult to decide which chapter is the right one for some applications. One example is Anti-Social Behaviour Orders – these apply to young people and adults, but seem to be associated in people’s minds with ‘young tearaways’, so I have placed them in Chapter 7 on young people.

To help readers ascertain whether a particular chapter contains the aspect they are looking for, there is a list of sub-headings in the main contents list. There is also a brief summary at the end of each chapter.

Most of the general research findings on restorative justice are in the chapter on research; but specific research findings of projects are included with the project. So the research on restorative justice in early years and in schools can be found in those chapters rather than the research chapter.

Case studies

There are over 200 case studies in this book. Many are concerned with minor cases, because that is where enabling legislation has made it possible to introduce restorative processes. But there are also examples of very serious cases, especially in the chapters on restorative justice in prisons and on complex and sensitive cases. I have tried to include as great a range as possible, and have been fortunate in the number and variety provided by practitioners.

Some of the case studies are quite short – these show what can be achieved. Others are longer and give more insight into the processes and how they work. To some extent this has been guided by the material given to me, but I also hope that the range of lengths and styles will be useful in catering for the differing needs of readers.

Summary of chapters

Chapter 1: What is restorative justice?

This chapter gives an overview of restorative justice, and discusses its principles and benefits. It looks at the values of restorative justice and at standards for practice.
Chapter 2: A brief history of restorative justice
This chapter looks mainly at the history of victim–offender mediation in the UK, looking at England and Wales, Scotland and Northern Ireland separately. It includes references to developments in Canada, the US, New Zealand and Australia, and how these influenced developments in the UK. The chapter looks briefly at developments in Europe and the rest of the world. It finishes with a brief chronology charting developments over time.

Chapter 3: Restorative approaches involving victims and offenders separately
This chapter looks at ways in which work with victims and offenders separately can follow restorative principles, putting right harm caused (as far as possible) and preventing re-offending. In many situations this work is needed before restorative meetings between victims and offenders take place, and this leads on to Chapter 4.

Chapter 4: Models of restorative justice involving victims and offenders together
This chapter looks at the models of restorative justice involving victims and offenders together, whether indirectly or directly. There are variations between these models, but all have in common the development of constructive communication between victims and offenders.

Chapter 5: Restorative approaches for the early years of life
This chapter considers some of the research on children and violence, then describes a problem-solving approach to aggressive behaviour, including conflict resolution training for young children (as young as nursery-school age), which can give them tools for life and also help their self-esteem. This has relevance for young children at home and at school.

Chapter 6: Restorative approaches in schools
This chapter provides an overview of the restorative processes being practised in schools, and how they work in the school context. The processes are designed to meet three levels of need: the whole school, low-level conflict situations and serious incidents. The processes described are much more effective when they are part of a ‘whole-school approach’ based on a restorative philosophy.

Chapter 7: Restorative justice with victims and young offenders in the UK
This chapter covers the provisions of the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999, and the opportunities these have opened up for restorative justice with young offenders and their victims. Several descriptions of local arrangements are included, covering Youth Offending Teams and independent
mediation services. Restorative initiatives for looked-after children in residential units are described, and their aim of alleviating the over-criminalisation of children in institutions. The use of restorative processes with anti-social behaviour shows the positive contribution they can make. Developments in Scotland and Northern Ireland are covered separately, as they have different legal provisions.

Chapter 8: Restorative justice with victims and adult offenders in the UK

This chapter starts by looking at the early probation-led mediation services, then moves on to consider their later links with independent victim–offender and community mediation services. The new opportunities for restorative justice afforded by the Criminal Justice Act 2003 are described. Two ground-breaking community justice initiatives are also included. The National Offender Management Service (NOMS) and its emphasis on resettlement have led to restorative justice work in a few places. Renewed government interest in restorative justice with adults has given rise to a large research project, with results awaited in 2007. Scotland has three of the oldest adult restorative justice projects, which are still operating.

Chapter 9: Restorative justice in prisons 1: Prisoners making amends

This chapter explores four aspects of prisoners making amends while in prison. Community service projects help to put something back into the community in a variety of practical ways. Victim awareness courses help offenders to realise the harm they have done, and motivates them to avoid re-offending. Victim–offender groups provide opportunities for victims and offenders (not from the same crime) to share experiences and dialogue. Victim–offender mediation and conferencing allow victims to meet their actual offenders, tell their story and ask their questions, and allow offenders to do the same. The chapter includes some case studies of restorative meetings after very serious crimes. All the processes described can be very beneficial if undertaken by trained and experienced mediators or facilitators.

Chapter 10: Restorative justice in prisons 2: Relationships in the prison community

This chapter starts by looking at research on conflicts in prison, and tackling the myth that violence is inevitable – it can be reduced through mediation and restorative conferencing. Many prisons are now experimenting with replacing prison adjudications (for prison offences) with restorative approaches, also using these in anti-bullying procedures. Peer mediation training has been undertaken in a Young Offender Institution, and in some Young Offender Institutions staff mediate conflicts. This leads on to building relationships in prison and the idea of a ‘restorative prison’, and what that could involve. Examples are given from Belgium, the country with ‘restorative consul-
tants’ in every prison. The chapter finishes by exploring whether restorative approaches can meet prison system needs too.

Chapter 11: Restorative justice around the world
This chapter looks at a variety of restorative practices around the world, from the well-established schemes in North America, Australasia and Europe, to the emerging initiatives in Central and Eastern Europe, Africa, Latin America and Asia. Several of the latter try to build on indigenous restorative traditions. The chapter finishes with the historic UN resolution of 2002, which has encouraged further growth of restorative practices.

Chapter 12: Restorative justice in complex and sensitive cases
This chapter looks at four areas of activity where restorative approaches are often seen as ‘unsuitable’: domestic violence/abuse, sex offences/sexual abuse, hate crime and gangs. Using examples and research from the UK and elsewhere, it shows that restorative justice can have an important role. These are complex cases with many aspects to consider, so special training and supervision are needed to undertake them.

Chapter 13: Issues in restorative justice
This chapter looks at situations when restorative justice does not work out. This may be for many reasons, such as victim or offender unwillingness, mental health issues, lack of remorse or inadequate practice. It goes on to consider three issues which are frequently debated in discussions of restorative justice: voluntarism, shame and forgiveness. There are no easy answers. But it is important to discuss them and to be aware of the nuances surrounding each topic, with the aim of arriving at the most restorative way forward in any particular situation.

Chapter 14: Research: A selection
Research into restorative justice is a huge topic, so this chapter presents a selection which highlights particular aspects. The chapter starts by discussing the complexities of restorative justice research, and then presents some meta-analyses which have considered large numbers of studies. The rest of the sections look at individual pieces of research under the following headings:

- Does restorative justice prevent or reduce offending?
- Do victims and offenders find the process helpful and fair?
- Are agreements about compensation and reparation fulfilled?
- Is restorative justice cost-effective?
- Victim–offender groups
- What works in implementing restorative justice?
Chapter 15: Restorative justice after large-scale violence or oppression

This chapter looks at the different ways adopted to deal with large-scale international violence and gross human rights violations. The advantages and drawbacks of a retributive court-based system are considered. Truth commissions are described, especially the South African Truth and Reconciliation Commission. An account follows of the Rwanda *gacaca* informal village courts system. Healing measures for some countries in Latin America, Northern Ireland and the Balkans are described. Finally the relationship of truth and reconciliation commissions to restorative justice is evaluated.

Chapter 16: Arts approaches to restorative justice

This chapter gives examples of the uses of drama, art and music in restorative work involving reparation by offenders to victims and the community; also in victim impact work to enable offenders to become more aware of the harm they have inflicted. The arts engage people emotionally, and this in turn leads to greater awareness. The arts can also help victims to heal after large-scale violence, and can bring people together to explore their future.

Postscript: Growing points

This looks at existing areas of growth and possible areas of expansion.

Lists of useful resources

At the end of the book can be found lists of books, websites and organisations, as well as a glossary. Also included at the end of the book are the United Nations *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters* (2002) and the Restorative Justice Consortium’s *Principles of Restorative Process* (2004).

Websites were checked at the time of writing; but they are subject to much change and may become no longer available as time goes on.
CHAPTER 1

What is Restorative Justice?

Introduction

‘Restorative justice’ has become the term generally used for an approach to criminal justice (and other justice systems such as a school disciplinary system) that emphasise restoring the victim and the community rather than punishing the offender. Some practitioners think that the term should be ‘restorative approaches’, but the name ‘restorative justice’ is the one that has travelled the world, so I continue to use it.

Restorative justice: A definition

There are many definitions of restorative justice. The Restorative Justice Consortium, a national charity whose members are national organisations and individuals interested in promoting restorative justice, uses the following definition on its leaflet:

Restorative Justice works to resolve conflict and repair harm. It encourages those who have caused harm to acknowledge the impact of what they have done and gives them an opportunity to make reparation. It offers those who have suffered harm the opportunity to have their harm or loss acknowledged and amends made. (Restorative Justice Consortium 2006)

A very simple definition I sometimes use when I give talks to audiences unfamiliar with criminal justice jargon is:

Restorative justice aims to restore the well-being of victims, offenders and communities damaged by crime, and to prevent further offending.

There are many other definitions, all quite similar but emphasising different aspects. Some of these are very wide-ranging, including such things as community service and victim awareness work with offenders. One guideline suggested by Helen Reeves (2003) of Victim Support is that an approach can only be deemed restorative if it includes attempts to put things right for the actual victims of crime.

Transformative justice

Some practitioners point out that only rarely can victims of crime be really restored to their previous condition. Even if goods are returned or insurance claimed or wounds healed, there are still likely to be emotional scars for the victim. The hope is that, rather
than aim to simply restore what has been lost, a dialogue between victim and offender can transform the crime into something different, so that the experience can be a healing one for all concerned.

**Principles of restorative justice**

These are the hallmarks of a restorative approach:

**Victim support and healing is a priority**

Although victim support and healing might seem an obvious aim for a criminal justice system, to have it as a priority would turn the system on its head. Most formal criminal justice systems are focused on offenders – identifying them, catching them, arresting them, charging them, taking them to court, sentencing them and punishing them. Huge state departments comprising police, prosecutors, magistrates, judges and prison and probation staff exist to process offenders. Although the needs of victims have begun to be recognised, there is still a vast imbalance in the resources allocated.

When I give talks on restorative justice, I often ask whether anyone has been a victim of crime – often half or all the audience put their hands up – then ask what they would have wanted after the crime. Almost all of them mention things they needed (their property back, questions answered, information about what was happening, etc.) rather than punishment for the offender.

**Offenders take responsibility for what they have done**

Offenders are used to ‘taking punishment’ but this is not the same as taking responsibility for what they have done. Many times when I was working with offenders, I heard them say, ‘I’ve done my time, I’ve paid my debt to society’, while in reality they had cost the state a lot of money and had not given a thought to those they had harmed – nor even been asked to. Taking responsibility means saying, ‘Yes, I did it and I take responsibility for the harm I caused.’ It is the starting point for restorative justice.

**There is dialogue to achieve understanding**

Many victims are full of questions about the crime – why me? why my house? what happened to the photographs? is it likely to happen again? and so on. There is only one person who can answer these questions. Some offenders do not understand how they have harmed their victims, ‘What’s the problem? They can get it back on insurance, can’t they?’, and it is only when they hear from the victim that they realise the upset they have caused. These dialogues are usually not possible in the formal court setting, but are one of the main processes in restorative justice.

**There is an attempt to put right the harm done**

The next logical step in taking responsibility for doing harm is to try to put things right, as far as is possible. Sometimes an apology is enough, but often more is needed. There may be practical issues to put right, such as a fence being mended. Sometimes the com-
Community has been harmed and this needs putting right; an example might be removing graffiti on an elderly persons’ home. Many offenders are poor and may not have the skills to do this, so the community or the state may need to help too. Victims sometimes ask offenders to do some voluntary work for people less fortunate than themselves.

Offenders look at how to avoid future offending
Again, once offenders have realised the harm they have done, they usually don’t like the idea of repeating their behaviour. And this is sometimes enough to stop them offending. However, many offenders have problems that lead to offending, such as homelessness, drugs or alcohol – they may need considerable help to avoid future offending and build a different kind of life. Restorative justice needs to go hand in hand with the resources to achieve this. The strong point of a restorative approach, for example a meeting with the victim, is that it provides the offender with the motivation to do this work. And in the long run, most victims are interested in offenders avoiding future offending, thereby preventing the creation of more victims.

The community helps to reintegrate both victim and offender
It is often very clear that offenders need to be reintegrated into the community, especially after a prison sentence – they need accommodation, jobs and relationships to become positive members of the community. But victims too need reintegrating into the community – they often feel alienated and cut off as a result of crime. This is one of the principal aims of Victim Support, the charitable organisation that provides practical and emotional support for victims of crime.

Some restorative processes: Definitions

Mediation (conflicts)
Mediation is a process in which an impartial third party helps two (or more) disputing parties to reach an agreement. The disputants, not the mediator, work out the terms of the agreement.

Victim–offender mediation
This is a process in which an impartial third party helps the victim(s) and offender(s) to communicate, either directly or indirectly. The mediation process can lead to greater understanding for both parties and sometimes to tangible reparation.

Reparation
This is the action taken by the offender(s) to put right the harm done, whether directly to the victim or indirectly to the community.
Victim–offender conferencing
This is similar in principle to victim–offender mediation but involves families of victims and offenders, and other relevant members of the community.

Family Group Conferencing
This is similar to victim–offender conferencing but the offender’s family has some private time to come up with a viable plan for reparation and for the future.

Victim–offender groups
These are groups in which victims of crime and offenders meet, usually for a set number of sessions, where the victims have suffered similar crimes (but not the actual crimes) to those perpetrated by the offenders.

Victim awareness work
This is work done with offenders, to help them become more aware of the effect their crime has had on their victim(s). It can be undertaken in its own right and also as a preparation for a meeting with the victim.

These will be described in greater detail in subsequent chapters.

Benefits of mediation/conferencing
Mediation and conferencing are key processes in restorative justice, in facilitating communication between victims and offenders, either directly (in a meeting) or indirectly (by letter, video or message). There are several benefits for victims, offenders, courts and communities.

For victims
Victims have the opportunity to:

- learn about the offender and put a face to the crime
- ask questions of the offender
- express their feelings and needs after the crime
- receive an apology and/or appropriate reparation
- educate offenders about the effects of their offences
- sort out any existing conflict
- be part of the criminal justice process
- put the crime behind them.
For offenders

Offenders have the opportunity to:

- own the responsibility for their crime
- find out the effect of their crime
- apologise and/or offer appropriate reparation
- reassess their future behaviour in the light of this knowledge.

For courts

Courts have the opportunity to:

- learn about how victims are affected
- make more realistic sentences.

For communities

Communities have the opportunity to:

- accept apologies and reparation from offenders
- help reintegrate victims and offenders.

Of course, there are times when victims and offenders considering mediation or conferencing do not want to pursue it. One of the main reasons for this is anxiety and fear, on both sides. The victim may fear being re-victimised, and the offender may fear vengeance. Given that it often takes months to apprehend offenders, many victims do not want to rake up things from the past.

Restorative justice in the criminal justice system

Mediation and conferencing can take place in the criminal justice system at all stages (provided the offender acknowledges responsibility):

Diversion to community or school mediation

In these cases a decision is taken to deal with the incident in the school or in the community, as a dispute, rather than label it as a crime. However, the person committing the offence still needs to take responsibility.

Diversion at arrest by police

These cases are ones in which the police deliver a reprimand or final warning to young people, and a caution to adults. They are therefore not charged, but are asked to consider the fact that they have done harm to someone else and have the chance to put it right.
Between conviction and sentencing
In these cases, offenders are remanded (on bail or in prison) after conviction, while reports are compiled to suggest an appropriate sentence. An enquiry into the feasibility of mediation or conferencing can also be carried out. In some cases the process can also be completed, and the outcome can have some influence on the sentence (although there is no guarantee of a lesser sentence). In most cases there is not enough time, and any mediation/conferencing takes place after sentence.

Post-sentence, in the community or in prison
Once sentence has been passed, there are no constraints as to when mediation can take place. The timing will be to suit both victim and offender. There is some evidence that mediation is particularly successful when the offender is under supervision, because that provides support (Wynne and Brown 1998).

Positioning of restorative justice
In the UK up till now restorative justice has been an ‘optional extra’ in the system, something that may be tried but is not mandatory. This has been seen as important, so as not to put pressure on victims to take part, and to ensure that offenders have a choice too (and victims also do not like taking part in a meeting with an offender who has been coerced into seeing them). But this has often left restorative justice as a marginal activity. Even the youth justice legislation in England and Wales, with its restorative intent, often leaves restorative justice as an ‘extra activity’ to be done as far as resources allow.

In places like Austria, New Zealand and Norway, restorative justice is not an alternative to the system, it is the system. It is the norm and the court system is only there as a fall-back if restorative justice cannot be carried out. And the new provisions in Northern Ireland also make restorative practices the heart of the youth justice system there. In these situations care needs to be taken that victims are not pressured into the processes against their will; but it is perfectly possible to introduce safeguards for this.

Other related processes and services
There are several other processes and services which, while not restoring victims directly, work to reduce the likelihood of more victims being created.

Alternatives to Violence Project
The Alternatives to Violence Project (AVP) takes conflict resolution workshops into prisons to offer inmates alternative ways of responding to conflict situations without violence.

Nonviolent Communication
Nonviolent Communication (NVC) is a model which focuses on people in conflict moving from blaming each other to expressing their needs so that these can be better met. It can be used to help victims and offenders to prepare for mediation.
Circles of Support and Accountability for sex offenders
A small number of volunteers (four to six) are recruited from the community in which a high-risk sex offender will be living. A Circle of Support and Accountability is a network which supports the offender, while holding him accountable for his actions. These Circles have been proved to cut the rate of re-offending of sex offenders in Canada, and Quakers in Britain have started a pilot scheme in the Thames Valley.

Community mediation services
Community mediation services use mediation to defuse neighbour and community conflict, some of which could escalate into crime.

Community reparation
Community reparation is work done for the community of general benefit. For adult offenders it is now called ‘unpaid work’ (it was formerly known as ‘community service’).

All these are described in more detail in Chapter 3.

Values of restorative justice
One of the best-known attempts to define the values of restorative justice was undertaken by Howard Zehr. He compared and contrasted retributive and restorative justice – retributive justice being concerned mainly with meting out retribution or punishment to the offender, restorative justice mainly with putting things right for everyone, especially the victim (see Table 1.1).

Some of the values of restorative justice coming out of this are: dialogue, mutuality, healing, repair, repentance, responsibility, honesty and sincerity.

Although Table 1.1 is useful in defining restorative values, Howard Zehr himself has since recognised that the ‘hard-and-fast’ division into either ‘retributive’ or ‘restorative’ does not model restorative values nor represent real life. Rather, he proposes a restorative continuum from ‘fully restorative’ through ‘partially restorative’ to ‘non-restorative’. He suggests six key questions to help analyse how restorative an intervention or model is:

1. Does the model address harms, needs and causes?
2. Is it adequately victim-oriented?
3. Are offenders encouraged to take responsibility?
4. Are all relevant stakeholders involved?
5. Is there an opportunity for dialogue and participatory decision-making?
6. Is the model respectful to all parties?

(Zehr 2002, p.55)
### Table 1.1: Retributive and restorative justice

<table>
<thead>
<tr>
<th>Old paradigm: Retributive justice</th>
<th>New paradigm: Restorative justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Crime defined as violation of the state</td>
<td>1. Crime defined as violation of one person by another</td>
</tr>
<tr>
<td>2. Focus on establishing blame, on guilt, on past (did he/she do it?)</td>
<td>2. Focus on problem-solving, on liabilities and obligations, on future (what should be done?)</td>
</tr>
<tr>
<td>3. Adversarial relationships and process normative</td>
<td>3. Dialogue and negotiation normative</td>
</tr>
<tr>
<td>4. Imposition of pain to punish and deter/prevent</td>
<td>4. Restitution as a means of restoring both parties; reconciliation/restoration as goal</td>
</tr>
<tr>
<td>5. Justice defined by intent and by process: right rules</td>
<td>5. Justice defined as right relationships; judged by the outcome</td>
</tr>
<tr>
<td>6. Interpersonal, conflictual nature of crime obscured, repressed: conflict seen as individual vs. state</td>
<td>6. Crime recognised as interpersonal conflict: value of conflict recognised</td>
</tr>
<tr>
<td>7. One social injury replaced by another</td>
<td>7. Focus on repair of social injury</td>
</tr>
<tr>
<td>8. Community on side line, represented abstractly by state</td>
<td>8. Community as facilitator in restorative process</td>
</tr>
<tr>
<td>9. Encouragement of competitive, individualistic values</td>
<td>9. Encouragement of mutuality</td>
</tr>
<tr>
<td>10. Action directed from state to offender:</td>
<td>10. Victim’s and offender’s role recognised in both problem and solution:</td>
</tr>
<tr>
<td></td>
<td>• victim ignored</td>
</tr>
<tr>
<td></td>
<td>• offender passive</td>
</tr>
<tr>
<td>11. Offender accountability defined as taking punishment</td>
<td>11. Offender accountability defined as understanding impact of action and helping decide how to make things right</td>
</tr>
<tr>
<td>12. Offence defined in purely legal terms, devoid of moral, social, economic, political dimensions</td>
<td>12. Offence understood in whole context – moral, social, economic, political</td>
</tr>
<tr>
<td>13. ‘Debt’ owed to state and society in the abstract</td>
<td>13. Debt/liability to victim recognised</td>
</tr>
<tr>
<td>14. Response focused on offender’s past behaviour</td>
<td>14. Response focused on harmful consequences of offender’s behaviour</td>
</tr>
<tr>
<td>15. Stigma of crime unremovable</td>
<td>15. Stigma of crime removable through restorative action</td>
</tr>
<tr>
<td>16. No encouragement for repentance and forgiveness</td>
<td>16. Possibilities for repentance and forgiveness</td>
</tr>
<tr>
<td>17. Dependence upon proxy professional</td>
<td>17. Direct involvement by participants</td>
</tr>
</tbody>
</table>

Dan Van Ness, another ‘veteran’ in the restorative justice field, also looks at a continuum of attributes, to see whether a system is minimally, moderately or fully restorative. He distinguishes between restorative processes and outcomes.

His attributes of restorative processes are:

- inclusion (vs. exclusion)
- balance of interests (vs. single interest)
- voluntary practices (vs. coercive practices)
- problem-solving orientation (vs. reprisal).

His attributes of restorative outcomes are:

- encounter (vs. separation)
- amends (vs. harm)
- reintegration (vs. ostracism)
- whole truth (vs. legal truth).

The further along the continuum, the more restorative the process or outcome is (Van Ness 2002).

These two ways of looking at restorativeness focus on the values of the process. Some ways examine particular models or practices to decide how restorative they are. In his overview of restorative justice, Tony Marshall (1999) looks at the involvement of the community as extending the healing available through restorative justice. McCold and Wachtel (2003) also see conferencing as involving more people in the possibilities of dialogue and both contributing to and gaining from the process. They have developed a restorative practices typology, dividing processes into ‘fully restorative/mostly restorative/partly restorative’, with family group conferencing, peace-making circles and community conferencing as ‘fully restorative’ because they involve the community affected by offending or harm.

Another way of looking at restorative justice is to think of it as a balance between a number of different tensions:

- a balance between the therapeutic and the retributive models of justice
- a balance between the rights of offenders and the needs of victims
- a balance between the need to rehabilitate offenders and the duty to protect the public.

(Greif 2006)
The wide appeal of restorative justice

One of the interesting facets of work in the field of restorative justice is its wide appeal to diverse groups of people. Many of the first people to become involved in this field did so for religious reasons (e.g. Mennonites, Quakers and others), because the concepts of reconciliation, redemption and forgiveness found a practical expression. The police have also become firm advocates in many places, as they see a way of serving victims of crime and rescuing young offenders from a life of crime. People with a law background see that legal processes often make matters worse and welcome the opportunities in restorative justice to sort things out on a human level. Even people with ‘tough’ views on crime see that restorative justice involves offenders taking responsibility for their crimes and doing something to put things right; something that does not often happen in the retributive system. They see this as ‘more just’ than offenders taking punishment without any thought for the victim.

All these groups of people are also impressed by the emotional experience of victims and offenders when they come together to talk about what has happened and what can be done to make things better. In a programme in London to publicise the benefits of restorative justice, the method chosen was to invite senior judges and policy-makers to observe victim–offender conferences; they were all impressed by what they saw and heard (Rethinking Crime and Punishment 2002–2004).

Standards in restorative justice

Clearly these are important to develop, so that practitioners achieve good experiences for victims and offenders, and avoid causing further harm. Most bodies practising restorative justice adopt or develop a set of standards. The Youth Justice Board (YJB) in England and Wales developed a set of good practice guidelines for restorative work with victims and young offenders (Youth Justice Board 2001), including key features of restorative practice:

- facilitators impartial
- facilitators appropriately trained
- perpetrator accepts responsibility
- realistic and informed choice
- no pressure on victims
- thorough preparation for all participants
- acknowledgement that views of all are important
- all parties involved
- solutions agreed by all parties
- perpetrators encouraged to be accountable for own actions
restorative meeting before reparation
• good inter-agency cooperation and communication.

The consultation document *Restorative Justice: The Government’s Strategy* (Home Office 2003) included the following draft principles for effective practice for restorative justice in the criminal justice system:

1. Care and respect for victims.
2. Thorough risk assessment.
3. Coordinated multi-agency working.
5. An inclusive approach.
6. Adequate training.
7. Preparation before and follow-on support after restorative justice.

These were then included in the Youth Justice Board book (2003) on restorative justice.

The Restorative Justice Consortium, which brings together people and organisations with an interest in restorative justice, produced their *Statement of Restorative Justice Principles* in 2002 and revised this to *Principles of Restorative Processes* in 2004 (Restorative Justice Consortium 2004) to cover a wider range of contexts than just criminal justice. These principles can be found in Appendix 1 at the back of this book.

Following the publication of *Restorative Justice: The Government’s Strategy*, the Home Office (2003) set up a working party of all the main organisations involved in restorative justice in England and Wales, to produce *Best Practice Guidance for Restorative Practitioners* (Home Office 2004). This was no mean achievement, given the diversity of views. This document is one of the best summaries of restorative practice and is used widely.

The UN Commission on Crime Prevention and Criminal Justice passed a resolution recommending restorative justice programmes in 2002, attached to a set of guidelines, *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters*, prepared by a group of experts on restorative justice at a meeting held in Ottawa in late 2001. These have been an encouragement to countries around the world to take up restorative justice (United Nations Commission on Crime Prevention and Criminal Justice 2002).

**Summary**

This chapter has provided an overview of restorative justice and a discussion of its principles and benefits. It has given some definitions of processes. It has also looked at the values of restorative justice and the different ways of deciding what is more or less restorative. Finally it has described some documents which set standards for practice.
References


CHAPTER 2

A Brief History of Restorative Justice

Introduction
This chapter will be mainly about the UK, but also highlight important developments in other parts of the world. There is more about restorative justice worldwide in Chapter 11. There are many histories of restorative justice and I hope that this will add to the collection.

The more I learn about restorative justice, the more I realise that it is not new, but the most ancient and prevalent approach in the world to resolve harm and conflict. The idea of responding to crime by punishing the offender has a much shorter history than the requirement that he or she put things right and make good the harm done. And punishing offenders, although initially emotionally satisfying to some, does little to restore victims or help them to heal. Thus many of the recent attempts to provide a more victim-centred form of justice have drawn on customs of Aboriginal, Maori and First Nations (Native American) people. Many African and Asian countries are also re-examining their restorative traditions – though there are elements (such as patriarchal traditions) that they want to modify for the twenty-first century.

Even Anglo-Saxon law was based on restorative justice. But from William the Conqueror’s time onwards, English monarchs defined crime as disruption of ‘the king’s peace’ and fined offenders in the King’s Courts to benefit the king’s pocket, for financial and political reasons. They justified their intervention by asserting that the wrong done to an individual extended beyond his or her family because it affected the community. This model of justice asserts that crime harms the state, and that the state should react by punishing the offender (Wright 1996).

Victim services in the UK
One of the first moves in recent years towards more victim-centred practice in the UK was the establishment of the Criminal Injuries Compensation Scheme in 1964 (made statutory in 1995). This was followed by the introduction of Compensation Orders in 1972, in which money is paid by offenders to victims to recompense for injury, loss or damage. Community Service Orders (now re-labelled Unpaid Work) were also
established in 1972, in which offenders make reparation to the community by working on projects of general benefit.

The first Victim Support scheme in Britain was started in Bristol in 1974, when the Bristol Association for the Care and Resettlement of Offenders (BACRO) thought of getting offenders to meet their victims so that they might realise the effects of their actions. BACRO realised they knew nothing about victims of crime, and set out to research their needs by setting up a pilot project in south Bristol to ask victims how they had been affected. This led to the foundation of Victim Support, which is now a well-known national charity, with services in all areas of the country. They also run Victim Witness Support Services in all criminal courts in England and Wales.

Canada (where it all started) and the US

The first recorded victim–offender mediation and reparation service in recent times in the western hemisphere took place in Canada in Kitchener, Ontario, in May 1974. A Mennonite probation officer, Mark Yantzi, took two young men to apologise to 22 victims whose houses they had vandalised (Zehr 1990). This was replicated by Mennonites in the US in 1978 in Elkhart, Indiana. The idea was taken up more generally in Canada and the US, leading to the establishment of several victim–offender reconciliation programmes (VORPs). These in turn led to the development of other restorative justice projects. In 2002 there were 773 projects in the US, and in 2005 there were 123 in Canada.

Conflicts as property: The influence of Nils Christie

Nils Christie, the Norwegian criminologist, wrote a ground-breaking paper in 1977, in which he suggested that conflicts were being treated as property and were being stolen by professionals (lawyers, judges, teachers, social workers). He advocated giving conflicts back to the participants, and services which helped them resolve their conflicts themselves in a community-oriented way. This led to the development of mediation services based on community volunteers (Christie 1977).

Victim–offender mediation in the UK 1980–1997

News of these projects spread to the UK, and linked in with existing initiatives in mediation. The Advisory, Conciliation and Arbitration Service (ACAS) was set up by a new Labour government in 1974, with offices in London, Scotland, Wales and six regional centres. The first independent Family Conciliation Service (now National Family Mediation) started in 1978 as a pilot project in Bristol and led to the formation of the National Family Conciliation Council in 1981, when there were 20 services. Conflict resolution work in schools was started in the UK in 1981 by Kingston Friends Workshop Group and soon led to peer mediation (see Chapter 6).

Community mediation and victim–offender mediation both started in the UK in the early 1980s – they were seen as part of the same philosophy. There had been occasional instances of victim–offender mediation by individuals for quite a long time, particularly
in special schools and therapeutic communities. Most of the early mediation services were largely dependent on visions of particular people or groups, including professionals from probation and psychology, and religious groups such as Anglican clergy and Quaker meetings. Quakers in particular have had a long-standing involvement in restorative approaches (Lampen 1987; Newell 2000; Wills 1945).

The National Association of Victims Support Schemes (NAVSS; now called Victim Support) was a focus of early activity. In 1982 NAVSS produced a report entitled Reparation by Offenders: Survey of Current British Projects (Reeves 1982); they also held a conference on reparation. Regular meetings led to the establishment in 1984 of the Forum for Initiatives in Reparation and Mediation (FIRM; later renamed Mediation UK) (Reeves 1987). Later NAVSS decided to distance itself from the mediation and reparation movement, in order to prevent confusion, safeguard the identity of Victim Support and establish a service for victims of crime in their own right. Nevertheless, it offered its Brixton base as a venue for FIRM committee meetings for several years.

The first victim–offender mediation project was established in South Yorkshire Probation in 1983. The Home Office took a great interest in the growing number of mediation schemes in the early 1980s, mainly with a view to diverting offenders from prison, which was beginning to be seen as an expensive and ineffective response to crime.

The Home Office also asked one of their senior researchers, Tony Marshall, to update the NAVSS survey. This survey (Marshall 1984) showed that 25 schemes were active:

- two community mediation schemes
- five police-based mediation/reparation schemes
- three court-based mediation/reparation schemes
- nine victim-assistance repair schemes
- four fund-raising schemes (e.g. offenders making things to sell in aid of victims)
- two encounter groups (groups of victims and offenders meeting, not based on the same crime).

Several more were in the planning stages. It can be seen that, at that time, mediation was virtually synonymous with victim–offender mediation, although only ten of those above were directly concerned with victims and offenders meeting.

Things were changing so fast that the Home Office published a new version only a year later (Marshall and Walpole 1985). By then there were 38 schemes, of which 31 were victim–offender schemes:

- seven community mediation schemes
- three police-based mediation schemes
- six police Juvenile Panel schemes
- five reparation schemes within intermediate treatment
• 13 probation court-based mediation/reparation schemes
• two voluntary organisation court-based schemes
• two indirect reparation schemes.

In this list 29 schemes were concerned with victims and offenders meeting, an almost threefold rise in one year.

The Home Office funded and researched four victim–offender mediation services between 1985 and 1987, three court-based and one police diversion scheme. The court-based schemes were all for adults and were in Leeds (Crown Court), Coventry and Wolverhampton (both Magistrates’ Court); the police scheme was for juveniles and was in Cumbria. The research showed that practice in these services had a bias towards offenders (Davis 1992; Marshall and Merry 1990), so they altered their practices to become more victim-friendly, with the result that in later years victims, offenders and courts all expressed high degrees of satisfaction.

Over the succeeding ten years, criminal justice policy under Conservative governments became increasingly punitive and had little interest in victim–offender mediation, so the number of services remained about the same. There were roughly 30 services in existence, some very small, mostly working with adult offenders. Some ceased, due to financial cutbacks; a few others started.

Three out of the four services originally funded by the Home Office 1985–7 went from strength to strength. The Northamptonshire, West Midlands and West Yorkshire schemes expanded county-wide, mostly funded by the local probation service and working mainly with adult offenders. Other probation services followed suit, such as Hereford and Worcester Probation Service Mediation and Reparation Scheme (Harrison 1990) and Lancashire Mediation and Reparation Project (1990). However, these two and others were short-lived.

The three county-wide victim–offender mediation services also continued to develop their work – for instance the Leeds Victim–Offender Unit produced a training manual which is still current (Quill and Wynne 1993) and undertook several small pieces of research (see Chapter 14). The West Midlands service expanded into other kinds of work. The Northamptonshire Adult Reparation Bureau, a multi-agency initiative aimed at diverting adult offenders from the court system while providing something for victims too, extended its service to young people – and influenced the multi-agency model for Youth Offending Teams brought in by the Crime and Disorder Act 1998.

Mediation UK continued to be the umbrella organisation for victim–offender mediation services, and provided relevant conferences and publications, such as guidelines on starting a service (Mediation UK 1993) and a digest of relevant research (Braithwaite and Liebmann 1998).

However, in the increasingly hostile political climate of the later years of the Conservative government, Mediation UK felt the need to help start another organisation which could lobby more freely. Members of Mediation UK and others started the Restorative Justice Consortium (RJC) in 1997 to bring together national organisations to create a groundswell for restorative justice. As the climate eased after the new Labour
government came to power, the RJC opened its membership to any organisations and individuals interested in restorative justice.

Even before the Labour government came to power, there was a surge of interest in victim–offender mediation, with several new services starting, often funded by one of the larger voluntary agencies for children in need. The new emphasis on helping victims led many offender agencies to re-examine their practices, and look at the possibilities of victim–offender mediation. So in May 1999 (just as the new legislation was taking effect) the number of services offering victim–offender mediation had risen to 46 (Mediation UK 1999):

- Victim–offender mediation services 32
- Conferencing services 4
- Youth justice with some mediation 4
- Reparation to community 1
- Motoring project with victim–offender mediation 1
- Educational course for offenders 1
- Coordinating group 2
- Victim–offender groups 1

Out of the 32 mediation projects above, 3 worked with adults, 9 with young offenders and the other 20 with both adults and young offenders. The conferencing projects all worked with young offenders (aged 10 to 17).

**Conferencing: New Zealand, Australia and Thames Valley Police**

In New Zealand, there was severe dissatisfaction with the criminal justice system, especially for Maori young people, who were disproportionately involved. The Children, Young Persons and Their Families Act 1989 aimed to empower families and communities, rather than professionals, in deciding the best way to respond to offending behaviour in children and young people. It also aimed to be more culturally appropriate to the Maori community, and established Family Group Conferences as the method of accomplishing these aims. This resulted in far fewer young people going to court or custody (see Chapter 11 for further details).

Conferencing was introduced into the Australian juvenile and criminal justice systems in the early 1990s. The conferencing idea was borrowed and adapted from New Zealand, but applied to Australia in a slightly different way. In 1991, police in the city of Wagga Wagga, New South Wales, were the first to try out conferencing. The ‘Wagga model’ used a carefully worked-out scripted process and police officers in uniform to run conferences of offenders, victims and community members to resolve feelings and needs after a crime. Police in other states followed suit, and conferencing also spread to
schools and workplaces in New South Wales and Queensland (see Chapter 11 for more details).

Meanwhile in the UK Thames Valley Police was already pioneering the use of restorative justice in police work. Superintendent Caroline Nicholl set up the Milton Keynes Retail Theft Initiative in 1994. This involved young and adult shoplifters and store managers in looking at the effects of such thefts (see Chapter 4 for more details).

In 1994 Terry O’Connell, who had initiated the work in Wagga Wagga, was awarded a Churchill Scholarship to look at victim–offender mediation in the UK, North America and South Africa. While in the UK, he met Charles Pollard, Chief Constable of Thames Valley Police. There were also links via John Braithwaite and Heather Strang of the Australian National University. Charles Pollard was already interested in restorative justice, from the success of the Retail Theft Initiative, and engaged enthusiastically in further contact.

Terry O’Connell returned to the UK to train Thames Valley Police in his method. A pilot restorative conferencing scheme was started in Aylesbury in 1995, but experience showed the need for further training, which took place in 1996. The practice was implemented throughout Thames Valley Police in 1998 as a ‘restorative cautioning initiative’. Between 1998 and 2001, about 2000 restorative conferences took place with victims present, and 12,000 with no victims present but their views conveyed to the offender. Nottinghamshire and Surrey Police also became involved, as did other police forces at a later date. At the start the process was used with cautions, and when the Crime and Disorder Act 1998 came into operation, it was used with Final Warnings for young offenders. Thames Valley Police also undertakes conferencing with adult offenders, principally in the delivery of police cautions and community conferences to resolve disputes (Bowes 2006; Hoyle and Young 2003; Rock 2004; Thames Valley Police Restorative Justice Consultancy 1997).

Charles Pollard and Thames Valley Police were very effective at promoting the message of restorative justice, holding large conferences to educate other professionals and influencing Jack Straw, the Home Secretary of the new Labour government in 1997. Jack Straw attended a restorative conference in Aylesbury and was very impressed. (He also visited Leeds Victim–Offender Unit and this further reinforced the message about restorative justice.)

Another prompt towards the new legislation was the Audit Commission report Misspent Youth: Young People and Crime (Audit Commission 1996), which showed how little of the funds spent in the criminal justice system was actually spent addressing offending behaviour: most went on administration, delays, lack of coordination, etc. Youth crime was seen by the new Labour government as an area that needed urgent attention.
Crime and Disorder Act 1998

Youth Offending Teams

The Crime and Disorder Act 1998 set up Youth Offending Teams (YOTs) in each area of England and Wales, bringing together police, social workers, probation officers and health and education workers – to work in a more coordinated way. Each local YOT has the freedom to meet government provisions in its own way, so there is considerable local variation.

Police

Police cautions for young people, applied differently in different areas, were replaced by a Reprimand for a first minor offence and a Final Warning for the next one. After a Final Warning, the young person is referred to the local Youth Offending Team for a rehabilitation programme to prevent re-offending.

Courts

Two new court orders were introduced. A Reparation Order requires young offenders to make reparation to the victim or to the community: up to 24 hours’ work within three months. An Action Plan Order requires a young offender to follow an action plan for three months, with specified activities designed to prevent further offending. Supervision Orders remained available for longer-term work.

Restorative justice provisions

All these provisions are expected to include a specified reparative element, which may be victim awareness work, mediation/restorative conference, reparation to the victim or community reparation. In most Orders, the number of hours of reparation is specified by the court (usually after recommendation in a pre-sentence report), but the actual activity can be adjusted according to local circumstances.

Many Youth Offending Teams now run excellent restorative programmes, putting the individual victim’s needs first, and arranging mediation or a restorative conference as a priority. Where victims do not want to be involved, YOTs have devised imaginative programmes of community reparation tailored to individual cases. However, some YOTs are very short of resources and have concentrated largely on community reparation as their main response. Some Youth Offending Teams have formed partnerships with community mediation services to undertake mediation cases (see Chapter 7).

Youth Justice and Criminal Evidence Act 1999

The Youth Justice and Criminal Evidence Act 1999 brought in a new court order, the Referral Order, which provides a sentence for 10–17-year-olds pleading guilty and convicted for the first time. The court decides the length of the order, between 3 and 12 months. This Act was the first legislation in the UK with directly restorative provisions,
including the victim in the process. As it applies to almost all first offences in court, including some serious offences, the Referral Order forms the bulk of most YOTs’ work.

After court, the young person is referred to a Youth Offender Panel, which meets in an informal setting away from the court. The people involved in this meeting are the young person, his or her family, the victims if they wish (but there is no pressure to attend), a member of the Youth Offending Team (which is responsible for preparations for the meeting) and two panel members drawn from the local community (and provided with training for this work), one of whom chairs the panel meeting. Other relevant people may also attend, such as a teacher from the young person’s school.

The meeting considers the circumstances leading to the offending behaviour and the effect of the crime on the victim. The panel then agrees a contract with the young person, including reparation to the victim or to the wider community, and a programme of activity designed primarily to prevent further offending.

The provisions of the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 were consolidated, with minor amendments, into the Powers of the Criminal Court (Sentencing) Act 2000.

Chapters 4 and 7 give more detail on the way these provisions work in practice.

New developments involving adult offenders

One of the unfortunate side-effects of the increased restorative justice provision for young people has been the withering of most adult restorative justice projects and services (apart from in Scotland; see below). The West Yorkshire Probation Service Victim–Offender Unit ceased work with adults in 2002 and with young people in 2004. Work with young people was funded by the government through the YOTs, whereas there was no identified funding for restorative justice work with adult offenders. In an increasingly target-driven culture, restorative justice work with adults became low priority and ceased, apart from one voluntary organisation (REMDI, based in Sheffield) and a few probation Victim Liaison/Contact Units (see Chapter 9), particularly the West Midlands. Some probation services have contracted out mediation cases to community mediation services, for example Kent Mediation, Leicestershire Mediation.

However, following the successes in the youth justice system, and the Halliday (2000) and Auld (2001) reports, the government began to look at expanding the role of restorative justice to include cases involving adult offenders and establishing a national strategy. Developments include:

- Long-term research project in restorative justice involving adult offenders, focused particularly on recidivism rates, but also victim satisfaction (despite the existence of much research elsewhere – see Chapter 14). At the time of writing (August 2006), the second stage of the evaluation has been published, and final findings are due in 2007.

• *Best Practice Guidance for Restorative Practitioners* (Home Office 2004), the result of a consultation process with restorative justice organisations meeting over a year. In the same document are recommendations on training and accreditation.

• The Criminal Justice Act 2003, in which reparation is one of the five purposes of sentencing (the others being public protection, punishment, reducing crime and rehabilitation). The Act allows for reparation:
  - as part of a conditional caution
  - as part of a deferred sentence
  - as an activity requirement in a community sentence
  - in three new sentences: custody minus, intermittent custody and custody plus. These sentences are to be served partly in prison and partly in the community, with requirements set by the courts.

At the time of writing (August 2006), the provisions of this Act are in various stages of being implemented.

• Conditional Cautions pilot project, including two sites using a restorative approach.

• Pilot project for restorative justice as a specified activity in a Community Order.

• The creation of NOMS, the National Offender Management Service, in which prison and probation come together to work with offenders throughout their sentence, including restorative approaches where available. The principle behind this is to provide a ‘seamless’ service and to keep offenders out of prison as far as possible. It is planned to run on ‘purchaser/provider’ lines, with restorative approaches being provided if purchasers buy them in (Blunkett 2004; Carter 2003; Home Office 2006).

• The establishment of 42 Local Criminal Justice Boards (LCJBs) in England and Wales. These boards bring together the chief officers of all the local criminal justice agencies to coordinate activity and share responsibility for delivering criminal justice in their areas. There is guidance for LCJBs on implementation of restorative justice on a Home Office website (Home Office 2005).

These are commented on further in Chapter 8.
Mediation UK\textsuperscript{1} and the Restorative Justice Consortium

Mediation UK and the Restorative Justice Consortium (RJC) have existed side by side since the start of the RJC in 1997, and work in a complementary way. Mediation UK concentrates on practice issues and helping services to start; it organises conferences and produces publications on these aspects. The RJC has more of an awareness-raising role, organising policy consultations and producing publications for people entering the field. They have liaised with each other and with Victim Support over policy in the restorative justice field.

Training and accreditation

Training in victim–offender mediation and conferencing has been undertaken by the services themselves, who have also helped to train others. Some of these have been statutory agencies, some voluntary organisations. As restorative justice spread, the need for training increased, and several individuals and small groups have set up specialised training consultancies. The RJC brings trainers together in the Trainers’ Forum, which is working on a Code of Practice for trainers.

Accreditation has not been seen as necessary until recently. Practitioners were trained by their own services to work in the field, and were carefully supervised. More recently some restorative justice trainers have provided Open College Network or Mediation UK accredited courses (which are in regular use for community mediation courses, where accreditation is more developed), but there has been limited uptake as accreditation for restorative justice is not yet required – many practitioners have professional qualifications which they feel are sufficient.

The fields of family and community mediation both have forms of accreditation. Family mediators are accredited by the UK College of Family Mediators (2005) and community mediators are accredited by Mediation UK (2005) with their certificate of Competent Mediator Status. However, there is as yet no specific accreditation for restorative practitioners in Britain.

For a time there was a National Vocational Qualification (NVQ) in reparation, but only one person completed it. Then an NVQ in mediation (all kinds) was developed but phased out shortly after starting. ‘Clusters’ of NVQ standards remained, but no full NVQ. The completion of Best Practice Guidance for Restorative Practitioners (see above) in 2004 meant that it could be used as the basis for developing National Occupational Standards. A small group of trainers (from the larger group that produced Best Practice) worked with Skills for Justice (a government department) to produce National Occupational Standards for Restorative Practice, which (at the time of writing, August 2006) are due to be published. This may then lead to a qualification in restorative practice.

\textsuperscript{1} Shortly after completion of this book Mediation UK closed, due to lack of funds. A successor organisation is being formed. Contact Maria Arpa, email: maria@mariaarpa.co.uk
There are also moves to set up an Association of Restorative Practitioners (ARP), under the umbrella of the RJC, to provide an independent professional association to be a national network of support and quality assurance for those involved in training and delivering restorative practices. Membership could be linked to qualifications as they are developed.2

Meanwhile, the interest in restorative justice is leading to university Master’s level courses. These are available or in the process of being developed at the universities of Chester, Hull and Ulster (Restorative Justice Consortium 2006); also at the International Institute for Restorative Practices (2006).

Scotland
The Scottish criminal justice system is organised differently from that of England and Wales. Since 1968 young offenders between the ages of 8 and 17 have been dealt with according to welfare principles through an informal Children’s Hearing, if they are not diverted completely. Also a Scottish prosecutor (procurator fiscal) has considerable discretion over whether to divert or prosecute cases.

The first formal reparation and mediation services were developed to enhance the use of diversion from prosecution for adult offenders (or, more accurately, ‘accused’, as they were being diverted from prosecution), while providing a service for victims. Pilot services started in Edinburgh in 1987 and in Glasgow in 1988. Cases were selected if they were likely to be prosecuted, and then diverted under deferred prosecution. In practice this meant that if an agreement was either not reached, or breached, then the case would still be prosecuted. The projects were evaluated in 1991 (Warner 1992) and found to work well.

The Glasgow project closed in 1991 at end of the pilot service; the Edinburgh one continued until 1993, when it closed for lack of funds, but restarted in 1997. In 1992 it gave rise to two further projects in Scotland: Hamilton and Motherwell; and Aberdeen. All three schemes are still in operation (run by Sacro3), working with adults.

The first Young Offenders’ Mediation Project was set up by Sacro in Fife, and further mediation and reparation services for young people have been developed since then. Restorative justice for young people is now available in all areas of Scotland. More details can be found in Chapter 7.

Northern Ireland
The first comprehensive scheme for Northern Ireland (including victim support, neighbourhood dispute service, juvenile and adult diversion, and court-based direct and indirect reparation) was developed by Extern (a voluntary organisation) in 1985.

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2 Further details available from the RJC.
3 Sacro used to stand for ‘Scottish Association for the Care and Resettlement of Offenders’ and has now been rebranded to ‘Safeguarding Communities – Reducing Offending’.
(Marshall and Walpole 1985), but this programme was shelved for lack of funds. Interest in restorative justice continued and a conference was organised late in 1994 by the Ulster Quaker Service Committee (UQSC) to learn about restorative justice and to consider possibilities for restorative justice in the Northern Ireland criminal justice system.

During the late 1990s three initiatives started, based in statutory agencies:

- a probation youth justice unit (ages 10 to 17) – post-court mediation (Davies 1999)
- two police schemes (Royal Ulster Constabulary) based on the work of Thames Valley Police: a restorative cautioning scheme in East Belfast and a retail theft initiative in Ballymena.

In addition two large community restorative justice schemes developed in response to the political situation, following the ceasefire in 1994 and the subsequent Good Friday Agreement in 1998. Considerable interest developed in restorative justice as an alternative way of dealing with anti-social behaviour, instead of the punishment beatings delivered by paramilitary groups. The Loyalist Alternatives project started in 1998 in the Greater Shankill area of Belfast and took 45–50 referrals in its first year, of which the majority resulted in victim–offender mediation, either direct or indirect. The scheme works largely with young people 13–25. The Republican restorative justice project Community Restorative Justice Ireland also started in 1998, with pilot projects in Belfast and Derry, taking 130–140 referrals in their first year.

A Criminal Justice Review Group was established in June 1998 and reported in March 2000. The report included a whole chapter on restorative and reparative justice, and recommended ‘the development of restorative justice approaches for juvenile offenders’, choosing the New Zealand model, integrating restorative justice into the criminal justice system (Criminal Justice Review Group 2000, p.203).

The Northern Ireland Youth Conference Service was established by the Justice (NI) Act 2002, and receives referrals through the Youth Courts and the Public Prosecution Service. So far the service is available in Belfast and three other areas, with the aim of complete coverage by mid-2007.

More details can be found in Chapter 7.

Europe

In most Western European countries, victim–offender mediation started in the late 1980s or early 1990s. Almost all have provisions for juveniles, and many have provisions also for adults. In many countries it is part of the standard procedure for diverting cases from prosecution or court. Mapping Restorative Justice (Miers and Willemsens 2004) contains details of developments in 25 European countries.

The European Forum for Victim–Offender Mediation and Restorative Justice (now the European Forum for Restorative Justice) was formed in 2000 to bring countries together and provide a forum for discussion and passing on good practice. The office is based in Leuven, Belgium.
Many Eastern European states have also started restorative justice programmes, from the late 1990s onwards. Several of them have been helped by a European Commission grant obtained by the European Forum (Fellegi 2005). They have also been encouraged by the European Council Framework Decision (2001), which stated that victim–offender mediation should be available in all member states by March 2006 (see Aertsen et al. 2004). So implementation of victim–offender mediation has been seen by some countries as part of their journey towards accession to the European Community.

Africa, Asia and Latin America

There is a strong tradition of customary justice in many parts of the world, often based on restorative principles. In most places these have been overlaid by colonial justice systems which are expensive and often difficult to manage (e.g. long distances to the nearest court). Several countries in Africa, Asia and Latin America are trying to dovetail traditional justice systems with the benefits of modern restorative justice schemes. A few of these are described in Chapter 11.

Chronology

A brief chronology may be useful:

- 1968 Children’s Hearing system, Scotland
- 1974 Mennonite mediation in Kitchener, Ontario, Canada
- 1983 First victim–offender mediation service in the UK (Sheffield Probation)
- 1984 Forum for Initiatives in Reparation and Mediation (FIRM) established (became Mediation UK in 1991)
- 1985 Home Office research (four schemes)
- 1987 First victim–offender mediation service in Scotland
- 1987 Probation-led services in England and Wales
- 1994 Milton Keynes Retail Theft Initiative (Thames Valley Police)
- 1994 Terry O’Connell’s visit to the UK
- 1995 First Thames Valley Police conferencing pilot (Aylesbury)
- 1998 Crime and Disorder Act (Reparation Orders and others)
- 1999 Youth Justice and Criminal Evidence Act (Referral Orders)
- 2000 European Forum for Restorative Justice formed
- 2001 Home Office research on restorative justice with adult offenders
- 2002 Justice (Northern Ireland) Act (Youth Conferences in NI)
Summary
This chapter has looked mainly at the history of victim–offender mediation in the UK – including Scotland and Northern Ireland, which have different criminal justice provisions. It has also included brief references to restorative justice developments in Canada, the US, New Zealand and Australia – and how connection with the latter brought conferencing to the UK. The chapter looked at developments in Europe and the rest of the world. Finally, a brief chronology charted developments over time.

References


UK College of Family Mediators (2005) http://www.ukcfm.co.uk


CHAPTER 3

Restorative Approaches Involving Victims and Offenders Separately

Introduction
There are several approaches which try to put things right for victims and for offenders, with the aim of the victim recovering from harm as much as possible, and of preventing the offender from further re-offending, without communication or meetings between victims and offenders. Although some practitioners would see these as ‘not restorative justice’, because they do not fulfil the criterion of involving actual victims, they can be seen as ‘near neighbours’ providing positive and constructive responses to crime.

The first section of this chapter looks at helping victims, regardless of whether offenders are caught. The second section looks at working with or helping offenders, and sometimes the community as well.

There is so much that could be included in this chapter. Some people see all rehabilitation work with offenders as restorative, as it tries to prevent future victims. This chapter concentrates on initiatives that relate to victims, possible future victims and/or the community.

VICTIMS

Victim Support
The first Victim Support scheme was set up in 1974 in Bristol, and the national body was established in 1979. The way it operates has been copied all over the world. Victim Support is the main organisation which helps victims of crime of all kinds. It is a national independent charity which helps people to cope with crime. It has a network of local branches across England, Wales and Northern Ireland, with separate organisations covering Scotland and the Republic of Ireland. The work with victims is carried out by trained volunteers, who offer:

- someone to talk to in confidence
- information on police and court procedures
- help in dealing with other organisations
- information about compensation and insurance
- links to other sources of help.

(Victim Support 2006a)

Victim Support runs a Victim Support line and can also put people in touch with other organisations, such as the self-help networks SAMM (Support After Murder and Manslaughter) and Compassionate Friends (which helps parents whose children have died).

### Case study: Victim Support work

*This is not a single case study; as an account of ‘a day in the life of a local Victim Support coordinator’ in a large city, it shows the wide variety of work undertaken by Victim Support:*

I arrive in the office at 8.15 a.m., put the kettle on, switch on the photocopier and check the answer phone. A weeping woman has left a message asking us to ring her. The fax springs to life and delivers 36 new cases from the police. I read them carefully to take out duplicates of yesterday’s urgent ‘phoned-in’ cases.

Our three other staff arrive. The phones start ringing. A colleague spends 45 minutes listening to a tearful parent whose son was hit with a bottle in the city centre last night. His face was cut and looks a mess – the mother is distraught and angry. I answer a call from a worker at a college asking us to visit a student who speaks very little English and is afraid to go out after a racist attack. I ring round the volunteers who are waiting to take the day’s cases and allocate 20 burglary and robbery referrals to them. I locate one who speaks the same language as the student – she will see him today.

A woman arrives at the office to see our criminal injuries compensation claims worker. Her application has been under way for nearly two years and she wants to discuss the offer they have made. A volunteer phones to talk over a case she visited yesterday involving a woman who has left her abusive partner and has to appear in court as a witness against him. We invite her for a pre-trial visit to the court to help her feel more confident and safe on the day.

Meanwhile another member of staff has been putting the day’s cases on the computer – those cases that are not allocated to volunteers but which have details of addresses will receive a letter offering our service in tonight’s post. I leave the office to attend a meeting on a high-crime housing estate, then drive to a housing estate on the edge of the city to open our afternoon drop-in session in a room at the area housing office.

A woman comes in to talk about a burglary. She needs information about replacing documents like her driving licence and passport and how to find ‘proof of ownership’ of the jewellery that has been taken, as she feels the insurance people don’t believe her claim. She feels worn out with phone calls, forms and mistakes made by people dealing with her. We talk about how easy it seems for the thief and how they have no idea of the difficulties that they leave behind them. As she leaves, she says how useful it has been to ‘get things off her chest’.
As I am locking up, an older woman arrives, very angry. While she was feeding the pigeons — as she did every day — a drunken man had threatened her. She had rung the police but they hadn’t come, and she was very upset. We talk about how we could get the police to visit her. She is calmer and happier as she leaves. I finish locking up and am glad to have been of use to her and the other victims of crime I have seen today.

**Case study: Youth Offending Team and Victim Support organise trip for young victims**

When they have been contacted by the Youth Offending Team (YOT) victim contact worker, various parents/carers of young victims have commented that, while they wanted no communication or reparation from the offender(s), they thought it would have been appropriate if ‘someone’ did something for their child, as a recognition that they ‘have been brave, or have been through something horrible’. Discussion with Victim Support revealed that such comments were very common for them as well, from the parents/carers of young victims or witnesses. This led to the YOT and Victim Support bidding for funds from ‘Positive Activities for Young People’, to take young people who had been a victim or a witness on a day trip. On the first occasion, 30 young people were taken on a free trip to Chessington World of Adventures. The feedback from both young people and their parents/carers was extremely positive, with staff being told that the sentiment behind the trip was greatly appreciated, that it seemed that ‘people cared about what had happened’. It was interesting that similar positive feedback was also received even from the parents/carers of young people who were unable to attend the trip. While it could be said that this is not standard ‘restorative justice’, it is an example of how victims’ wishes were listened to and acted upon, and how a service was also provided to victims whose offenders had not been apprehended.

** Victim Witness Service**

In 1989 the first Victim Witness Service was set up, and since 2003 it has been available in all Crown Courts and Magistrates’ Courts in England and Wales, funded by the government, run by Victim Support. The Witness Service helps victims of crime and their families, and any witnesses called to give evidence. Staff and volunteers offer:

- someone to talk to in confidence
- a chance to see the court beforehand and learn about court procedures
- a quiet place to wait
- someone to go with witnesses into the court room when giving evidence
- practical help
- easier access to people who can answer specific questions
- a chance to talk about the case afterwards, and get more help or information.

(Victim Support 2006b)
**Case studies: Victim Witness Service**

Mrs Brown, who lost her entire week’s pension when two young men entered her house, received some much-needed support going to court from the local Witness Service. The thieves had taken her purse from the kitchen table just as Mrs Brown was arriving home from visiting her grandchildren. Mrs Brown said:

I spotted the boys and was able to identify them in a police line-up, which meant I had to go to court to give evidence. I’d never been into a court in my life; strangely I felt more intimidated about appearing in court than I did when I walked in on the boys stealing my purse. The people from the Witness Service were so nice, they showed me around the court house a few days before the case was coming up and we talked about what would happen on the day. I felt much better knowing there would be a friendly face to greet me when I went to court. I don’t know what I would have done without their help.

Jamie, aged 11, spent a week in hospital after he was pushed to the ground by fleeing armed raiders at a local post office. As he had seen them, Jamie was required to give evidence at the Crown Court. ‘I was really scared,’ said Jamie, ‘but I was shown around the court beforehand and had things explained to me and lots of my questions were answered.’

**Compensation through the courts**

Until fairly recently compensation for victims through the courts was not available at all. In 1972 it became available, but only as an additional penalty to be added on to another sentence, for example, with a probation order. From 1982 it has been available as a sentence in its own right, and magistrates and judges have a duty to ask in each case whether compensation is asked for (Wright 1996).

The rate of payment of compensation by offenders is not very high – many of them see it as ‘just another fine’. However, where compensation orders are made following mediation, compliance is much higher because offenders realise why the money is needed, and are more emotionally engaged with the idea of paying something back.

**Criminal Injuries Compensation Scheme**

The Criminal Injuries Compensation Scheme was set up in 1964, the first such scheme to be established in the world. It provides compensation for victims of violent crime, whether or not the offenders are caught. The scheme allows financial awards to be made:

- to recognise the injuries, physical and mental, caused by a crime of violence
- in certain circumstances, to compensate for past or future lost earnings or special expenses caused by such a crime
- for bereavement as a result of a crime of violence, including, in some cases, compensation for the lost earnings of the person who has been killed.
The scheme deals with injuries suffered in Great Britain (England, Scotland and Wales) and covers physical and mental injuries as a result of a violent crime. Northern Ireland has its own scheme. The injury must be serious enough to qualify for the minimum award, i.e. it is not for small injuries (Criminal Injuries Compensation Authority 2006).

**Escaping Victimhood**

‘Escaping Victimhood’ is the title of a week-long residential workshop set up by a group of professionals in 2005 for victims of serious crime and trauma, such as those who have lost relatives through murder or manslaughter, or who have suffered serious assaults. Such victims receive help from Victim Support at the time of the crime, but often the effects of such crimes are long-lasting and severe. The aim is to provide a space in which victims can address their needs and move on from being victims.

The week takes place in a quiet location such as a conference or retreat centre with a garden, where participants can relax and enjoy their surroundings. Elements of the programme are:

- a briefing about trauma and the diversity of reactions to it
- the presentation of a model of change, looking at their life as a journey
- creative expression through art and music
- relaxation and massage
- meditation and spiritual concerns
- access to counsellors and facilitators.

Equally important is the opportunity for participants to share with each other (Newell 2006).

**Case study: Escaping Victimhood**

*This case study is from a participant whose son was murdered.*

I lost my son William over nine years ago. He was stabbed to death, sexually mutilated and had his throat cut. He was just 18 years old. Despite the shock and horror of my son’s murder, I took on the system and campaigned for many years for better treatment of families of murder and manslaughter. Unfortunately, on numerous occasions, this fell on deaf ears.

When I arrived I was anxious about what I had let myself in for. I was a broken spirit. Almost immediately, over lunch, we were put at our ease. For the first time in nine years, people were accepting us and not judging us in our broken state.

Since the brutal murder of William I have been unable to cope with any images of violence. I was delighted when Simon took that on board and understood. I felt heard at last.
Jay explained the workings of our minds, in terms that we all understood, and allayed our fears that we were ‘mad’ people. We were traumatised by the horrific circumstances that were thrust upon us, and over which we had no control.

The two Carols, Marian and Julia brought out the best in us, relaxing us into feeling human again. For me the combination of massage, art and walking the labyrinth were especially important, as I have felt totally isolated on my horrendous journey to survive. Barbara and Linda did their utmost to ensure that we all had what we needed to help us, and became friends to us all.

With all the treatments and care made available to us, we felt able to respond and open up; to unleash some of our pain that had been trapped within us for what seemed like an eternity, in a safe and peaceful environment. It was OK to cry, laugh, shout; to feel and show emotions, something that we are not allowed to do in our society.

I carried away with me all the benefits I received during my stay. But there needs to be someone experienced to coordinate a multi-agency response to families in crisis, during the immediate aftermath, to reduce the longer-term effects. My own family was destroyed by the system’s failures. This must not be allowed to continue.

OFFENDERS

The following models are often included in descriptions of restorative justice, although they do not fit the criterion (see Chapter 1) of involving actual victims. Some of them can be used as precursors to involving victims, for example offenders undertaking victim awareness work before meeting their victim.

They are included here because they have a similar philosophy and a restorative approach to the community and to offenders.

Children’s Hearings (Scotland)

The Children’s Hearings system is Scotland’s distinctive way of administering care and justice for children and young people up to the age of 16 (or in some cases 18). Its principles were originally enshrined in the Social Work (Scotland) Act 1968, and revised by the Children (Scotland) Act 1995. They are:

- the interests of the child are paramount
- children who have offended and children in need of care and protection are dealt with in the same system
- children and parents are involved in the process
- the views of children must be taken into account
- inter-agency cooperation and partnership
- intervention occurs only when legally justified, necessary and to the required level.

Children’s Hearings aim to achieve beneficial change in the lives of children in trouble and troubled children. The philosophy is that if this primary aim is achieved, the whole
community will benefit: children will be better protected and there will be reduced levels of offending and truancy (Scottish Executive 2001). Children’s Hearings are held in private, and usually include the child, the parents, the Children’s Reporter, a social worker and other relevant people, for example a teacher. The three trained lay panel members, appointed by Scottish Ministers (to include at least one man and one woman), can decide the measures to be taken, after discussion with everyone. If there is a dispute about the facts of the case, then the hearing goes first to a sheriff court; the panel is concerned only with what compulsory measures of care the child needs, if any. The paramount consideration is the welfare of the child (Scottish Children’s Reporter Administration 2006).

**Case study: Children’s Hearing**

Kevin (aged 14) had been on a social work supervision requirement at home since he was eight, when he and his younger brothers and sisters were found wandering the street at 11 p.m. It transpired that his parents could cope most of the time but were binge drinkers. Kevin was called to a panel, which is the annual review of the previous supervision requirement, and to have ‘grounds’ put to him concerning various shoplifting and breach of the peace offences.

Kevin came to the hearing with his mum, social worker and teachers. The teachers were worried that Kevin had not been at school recently, and he told the panel that gang boundaries made it difficult to get there. This was discussed and Kevin agreed that he could go by bus to avoid the difficult area. The panel heard, from Kevin and his mum, that Kevin’s dad had left the home during the previous year, and this was further discussed by the social worker. While in some ways the home was more stable, Kevin felt he had to be the man in the house. The panel learnt that Kevin had been stealing to drink.

After they had heard from everyone, and there were no further questions, the panel members in turn then made their individual decisions before consulting with each other. The panel decided to impose a home supervision order, with a condition of working with a young people’s addiction worker, and also asked the social worker to find him a male befriender. The panel asked that the order be reviewed after six months as they were anxious that Kevin should be monitored and further supports/alternative placements be found for Kevin if necessary.

**Community reparation**

The first responsibility of an offender is to put things right as far as possible for the victim of his or her crime. But often victims do not want anything tangible from offenders – they may have repaired the damage long since (offenders are often only caught and sentenced months after the event), or may not want the offender to do anything for them. Sometimes damage cannot be repaired, or to do so is beyond the means of the offender. In these cases, victims are often keen for the offender to do something to make amends to the community in general – as we saw in Chapter 1, restorative justice takes into account the whole community.
For young people, the Crime and Disorder Act 1998 brought in Reparation Orders which can be used for victim awareness, mediation, conferencing or community reparation (or all of these). Action Plan Orders, Supervision Orders and Referral Orders are also expected to contain an element of reparation, either to the victim or to the community. The priority should be to involve victims’ wishes, if they want to be involved.

For adults, Community Service Orders (now called Unpaid Work requirements) were established in 1982 to serve this need. Building on the success of youth justice legislation, the Criminal Justice Act 2003 makes provision for adults to do some kind of restorative/reparative work as part of several new sentences.

Even in prisons, community reparation is available and popular with prisoners, because they feel they are doing something positive and putting something back into the community. And they are popular with the community, which sees offenders making positive efforts and doing something for other people. Some prisons run their own schemes, for example making toys for local charities, and the Inside Out Trust runs projects in many prisons (see Chapter 9, pp.201–4, for a description of the Inside Out Trust and its work).

Case study: Youth Offending Team – work with children’s theatre group

Mack received a three-month Referral Order for ‘going equipped’ (carrying tools that could be used for burglary). At his panel he expressed a lot of remorse, and the panel members found him polite and easy to engage. Mack had made it clear that he enjoyed drama at school but didn’t feel there were any suitable clubs to join where he lived in Battersea. So the panel suggested nine hours’ reparation in a community drama setting, if the reparation coordinator could find this, or, if not, decorating at a local primary school.

Contact was made with the Wimbledon Polka Dot Children’s Theatre and the production manager was very keen to help. The following programme was set up for Mack:

- **Day 1, 4 hours:** Meet production team. Help moving props in the production room and help with art work. Change set after performance ready for a new production starting the next day.

- **Day 2, 5 hours:** Introduction to lighting techniques and equipment. Asked to join the two-man lighting team and given lighting technician’s role for a live performance in front of a full house of the new production.

Mack showed excellent communication skills and was popular among all the staff. He learnt several new skills very quickly and contributed to a low-budget community theatre production. His role in the lighting was very demanding and he was under a lot of pressure but did very well. As a result of this, he was offered a school holiday job at the theatre.

The staff at the theatre commented that they normally had very little contact or knowledge of young people such as Mack, and felt it was really worthwhile helping in any way they could. So this placement brought together members of the community whose paths would otherwise not have crossed.
Case study: Youth Offending Team – cleaning graffiti from trains

This account was written by the reparation coordinator for the Youth Offending Team.

Ian received a Reparation Order (24 hours) for criminal damage. The offence involved graffiti on London Underground. Ian often spoke of his love for graffiti and saw it as an art form rather than a criminal offence. I decided to supervise Ian’s hours in partnership with London Underground. I already had a contact at their Hammersmith depot but health and safety issues meant we had never worked together. The depot was surrounded by moving trains, live rails and overhead cranes, and although both London Underground and the YOT were keen for direct reparation to take place, we were apprehensive about the risks. I met the manager of the depot, then the health and safety team at the council, and drew up an extensive risk assessment, which I also presented to Ian’s carer and the manager of the YOT. It was decided that it was possible to minimise risk to a safe level, so we could complete Ian’s reparation at the depot.

Over four Saturdays, for six hours each time, Ian completed the following tasks:

- Health and safety training. Having discussed all procedures for health and safety, Ian was issued with a visibility vest and waterproof jacket, waterproof boiler suit and hood, goggles, rubber gloves and Wellington boots.
- A tour of the repair depot, looking at graffiti on the trains. Discussion with various team leaders who deal with graffiti on the cost and consequences to London Underground and the public.
- Case study discussions on various cases where investigations have led to arrests for graffiti. A look into police and other intelligence gathering.
- Removing graffiti from the inside and outside of trains using chemicals, cloths and grinding machines.

Ian became really involved in this project. He learnt a huge amount, particularly about the jobs of those who have to remove the graffiti, as the teams of cleaners tended to be poorly paid shift workers, and the work was dirty and boring. Ian spoke openly about his offences and also about how this experience had changed his outlook. He completed his order and then joined several legal graffiti projects for youth organisations. He also applied to do an art and design course.

The London Underground, for its part, believed the cost in terms of kit and manpower (we worked with five different team members) was worthwhile and said they would be happy to work with the YOT again.
Case study: Youth Offending Team – clearing weeds round a village hall

A girl broke into a village hall. After she had completed reparation there, the chairman of the Village Hall Management Committee wrote:

I am very impressed by the system for dealing with the girl who broke into the village hall. The many people involved with the case appeared to be thoughtfully concerned, both for the girl and what had to be done. They made every effort to persuade the girl to realise that her behaviour was unacceptable and why reparation was necessary. When she and her supervisor came to the hall, they did an excellent job in clearing the weeds from the entrance to the car park on a particularly horrible, wet day. All efforts were made by everyone concerned. I really do hope that the girl will keep to the straight and narrow in the future. With best wishes for the continued success of your team.

For prison community reparation cases, see Chapter 9, pp.201–5.

Priorities for reparation

In November 2005, Peter Wallis of Oxfordshire Youth Offending Team organised a conference entitled ‘Doing Sorry’, to bring together reparation coordinators from different Youth Offending Teams and to draw out principles and priorities for reparation. The following list was proposed, in order of priority of ‘restorativeness’:

1. Repairing the actual physical damage (e.g. hammer out a dent in the victim’s car).

2. Doing a task for the victim (e.g. clean his or her car).

3. Making reparation in the community at the victim’s suggestion (e.g. work for a charity of his or her choice).

4. Offering a gift to the victim.

5. Keeping the victim informed about community reparation done by the young person.

6. Repairing the harm caused to other victims of similar crimes/the wider community (e.g. refurbishing bikes to give to bike crime victims).

7. Making reparation that reflects the nature of the offence (e.g. cleaning graffiti if the offence was graffiti, even if it is not the offender’s graffiti which is cleaned).

8. Making reparation that builds on the young person’s interests and skills but is unrelated to the offence (e.g. art projects in the community).

All of these are worthwhile and have a place, but those closer to the top of the list are more restorative in repairing the harm to the actual victim of the crime (Wallis 2005).
Victim awareness work – individual/group

The increasing recognition of crime victims’ pain and suffering has led to work with offenders to increase their awareness of this. My first work in the criminal justice field was with offenders at a day centre. We worked with the offenders in many ways to empower them and to build positive lives free of offending – but we hardly gave a thought to their victims. (Interestingly it was an ex-offender social worker who was the one to say to a 17-year-old who had stolen a car to ride round in, ‘Have you thought about the owner of the car? It might be a disabled person, or a doctor.’)

My next job – with victims – was a complete eye-opener for me. When I went back to work with offenders as a probation officer in a field team, I could no longer work with offenders in the same way. I felt I had to challenge some of their misconceptions, such as ‘They’re all insured anyway’ or ‘I didn’t really do any damage’ or ‘It was their fault for leaving the window open’. I did not want to ‘rub offenders’ noses in it’, preaching at them how much harm they had done. Rather, I felt that, if they really knew what victims went through, many of them would no longer want to continue offending – so I saw victim awareness work as a helpful activity. At that time there were few materials to help workers with this task, which needs to be carried out in a non-punitive way to be effective. Now many Youth Offending Teams and probation teams have an array of methods they use in this work with offenders.

Victim awareness (sometimes also called victim impact) work can be carried out individually or in groups. Below are two examples, one of each.

Case study: Victim awareness work (individual) – Youth Offending Team

Where victims cannot be contacted or do not want to be involved in any way, offenders can still learn about how victims of crime are affected through structured exercises, either individually or in groups. The method described below has been developed by one YOT as a way into this work, which may then lead on to work more directly focused on the actual offence. It may eventually lead to indirect or direct contact with the victims (see Chapter 4).

Our Victim Contact Worker contacts all victims before I write the report for court or Youth Offender Panel, and finds out how victims have been affected, as well as whether they want to be involved in the restorative justice process (e.g. attend the Youth Offender Panel, take part in mediation, or receive a letter from the offender) or be referred to Victim Support, and whether they are willing to pass on information to the offender about how they were affected.

After the court case, I attend to urgent issues with the young person first, such as homelessness, family conflict and school non-attendance. Victim awareness work comes next.

We start by looking at citizenship – what rights they have as young people, such as food, shelter, not being abused, not having their possessions taken from them, and so on. They can relate to this as often they have been badly treated themselves. Then we go on to their responsibilities – what other people can expect from them. After this, I ask them if they, or close family members, have been victims of crime, and how they were affected,
just after the event and in the longer term. This then gives a platform for talking about the
effect of their crime on the victim. We do a ‘word-storm’ around the word ‘victim’ and
think of all the effects there might be, both short term and long term. We go through
their victim’s feedback on how they have been affected. Then we start putting these into
words and phrases that eventually become a letter.

If a long time has gone by, I may ask the Victim Contact Worker to visit the victim
again to check how they are and see if there is any additional information they want to
pass on, or whether they would still like a letter of apology.

I look at this information together with the young person, then I ask them, ‘What
would you like to say to that person?’ We jot down the phrases and sentences. This can
then become the basis of a letter to the victim – acknowledging the harm, apologising
and addressing the particular concerns of that victim. When we have finished, the young
person copies it out neatly – at home if they are literate, in the office with me if they have
difficulties. If the victim doesn’t want to receive the letter, it stays on the young person’s
file.

If there are lots of victims I try to cover as many as possible, though sometimes there
are so many that we concentrate on the main ones. It has to be a meaningful exercise to be
worthwhile. By the time the letter is completed, I hope the offender has gained some
empathy and understanding, which should help reduce the risk of further offending of a
similar nature. And sometimes the process leads to contact with and feedback from the
victim.

Case study: Victim awareness work (group) – Bristol
Prison

The Victim Impact Programme was designed as part of a prison project for street crime
and prolific offenders. Referrals to the programme were made by any prison staff or as
self-referrals, and attendance was voluntary. Despite its challenging nature, the
programme was oversubscribed and had a long waiting list.

The programme included simple non-threatening exercises to get the group going,
such as ranking offences in order of seriousness, before moving on to role plays involving
victims and offenders. Other exercises included:

- the impact of crime on victims
- creating an imaginary offender and identifying who is affected, and how
- using role cards and asking questions about vulnerability to crime
- asking ‘when would you take a £10 note?’
- exploring feelings when you have been a victim
- role playing the victim of the offender’s own crime.

A detailed description of this group is given in Chapter 9, pp.206–7.
Circles of Support and Accountability for sex offenders

Circles of Support and Accountability were first developed in Canada in 1994 to deal with the escalating hostility of communities towards sex offenders, which in turn led to the increasing isolation of such offenders when they were released from prison – which in turn increased the danger of re-offending. Quaker Peace and Social Witness heard about them and approached the Home Office, which agreed to co-host a workshop in June 2000. Two pilot projects were set up in Britain in 2002, focusing on high-risk sex offenders who also have high needs. The largest pilot project is in the Thames Valley area. By 2005, this project had set up 15 Circles.

For each Circle, five or six volunteers are recruited from the community where a high-risk/high-need sex offender will be living. The volunteers are trained and screened for their suitability. Each Circle supports one ‘core member’. The Circle forms a support network, usually meeting once a week, with individual members meeting with the core member in between so that the core member has daily social contact with a friendly person. The Circle also holds the core member accountable – he has to give a commitment not to create any more victims; and if his behaviour gives cause for concern, the Circle will notify the authorities – in which case the sex offender may be recalled (Quaker Peace and Social Witness 2003, 2006).

Case study: The core member’s perspective

These comments are taken from an evaluation study by a social work student who interviewed four core members who were in a Circle.

When I am advised/told something which does not necessarily make me feel comfortable, I do listen because I know they’re being honest in order to benefit me.

Coming out of prison was an emotional period for me. If I had not had the Circle it could have led to re-offending when feeling emotionally down. They have helped me to focus in on the way I think so that I do not get into a situation of re-offending.

Without the Circle’s support I think I could have re-offended, they offered me support and advice at one of my lowest points and were there to help and support me.

The Circle do understand your feelings of isolation and loneliness. You need to genuinely want to change the way you think and then you can re-build yourself as a new person with help from Circles.

(Quaker Peace and Social Witness 2003, pp.24–5)

The first three years of the project were evaluated by a forensic psychologist. Twenty core members had Circles of Support and Accountability. No core member was reconvicted of any new sexual offence. However, eight core members displayed recidivist pre-offence behaviour, and in seven of these it was the activities of the Circle that identified this. Three core members were contained within their Circle, one was suspended from the Circle, three were recalled to prison, and one was reconvicted for...
breaching his Sex Offence Prevention Order, but none of them committed an offence (Quaker Peace and Social Witness 2005).

Since 2005 the project has provided help for similar initiatives starting up across Britain – including Bedfordshire, Bristol, Exeter, Manchester, Norwich, Somerset, Yorkshire and Scotland. It is hoped that, from 2007, a new or existing national voluntary organisation will provide national coordination (Drewery 2006).

Case study: Circles of Support and Accountability – Harry

Harry is a 59-year-old child sex offender who describes himself as a paedophile. He is an intelligent man with a life-long history of offending sexually against children. His index offence, which resulted in him serving six years of an eight-year custodial sentence, was sustained abuse of a nine-year-old girl. Unusually (for a man with such an offending profile) Harry was a married man with two daughters; his victim was a close friend of his daughters, and Harry had cynically used them to access his victim. The abuse was both sustained and intrusive and he rationalised his behaviour by believing he was indulging in a loving caring relationship in which he was teaching her about sex. After he had been convicted for this offence, his wife divorced him, and on release he relocated to a new area, emotionally lonely and isolated.

After completing extensive sex offender treatment programmes both in prison and in the community (which failed to impact in any meaningful way), he heard about the Circles programme while resident at a probation hostel. His motivation to join a Circle was not born out of a desire to take responsibility for his offending behaviour: quite the contrary. Harry was a man who believed that society discriminated against child sexual offenders and used the example of the decriminalisation of homosexuality to legitimise his thinking. His motivation to be in a Circle was a desire not to re-offend, recognising that next time he would receive a life sentence. The decision to provide him with a Circle was based on two key factors:

1. He presented a significant risk (MAPPA level three) to the community.
2. He was motivated not to re-offend and was requesting help to live an offence-free life.

Four volunteers were assigned to his Circle:

1. Headteacher (male aged 50+, married with children).
3. Housing manager (male aged 40, married with children).

MAPPA stands for Multi-Agency Public Protection Arrangements, the local strategy to work with known sex offenders in the community, to prevent re-offending. The MAPPA was set up in 2001.
The task for these volunteers was difficult in that the attitudes presented by Harry required constant challenging. Both female volunteers (an interesting issue of gender) required external support in dealing with their dislike of Harry, both wishing to continue in the interests of public protection. The Circle over time established a routine of regular group sessions and individual contact.

However, recurrent victim issues remained. The Circle discovered that Harry had photographs of his victim by his bed; he possessed a compilation video of his family in which his victim was performing a Spice Girls’ routine with his daughters. He also had a detailed diary of his offending, kept on his computer, which he would regularly revise and edit. All this information was shared with the police and the MAPPA and resulted in the police checking the contents of Harry’s hard drive. However, despite all of this, it was considered that no new offence had been committed.

The Circle volunteers learnt that while Harry would initially resist suggestions and challenges, over time he would acknowledge the wisdom of their thinking. The pivotal point of change for Harry was related to his diaries. The headteacher, with the support of the other volunteers, eventually persuaded Harry to allow him to read the diaries. Having done so, his feedback to Harry was that, while the descriptive account of the offending behaviour was unpleasant, it was what he had expected. What he found more repellent was the cold and calculated way in which he had used his daughters to gain access to their friend – and once this had been achieved, the way in which his daughters became an irritating hindrance. The Circle then spent many hours focusing on, examining and reinforcing this issue. This was the key to a major change in Harry’s attitude and perspective.

The Circle discovered that Harry had told his eldest daughter that he had made a will leaving everything to his victim. It also transpired that Harry had never shown demonstrable love or affection to his daughters. With the support and encouragement of his volunteers, he began to have positive telephone contact with his eldest daughter (who was now 25 years of age). To celebrate his sixtieth birthday, the Circle arranged a party for Harry, and liaised with police and probation to invite both daughters – it was known that they were keen to see their father again. Before the party the Circle worked with Harry on issues of appropriate boundaries and behaviour with his daughters, how he would greet them, how to show his feelings. The party was a great success and Harry couldn’t stop smiling for over a week. He eventually removed the photos of his victim and replaced them with photos of his daughters. He also allowed the videotape to be edited and deleted the diaries from his computer.

Harry still perceives himself as a paedophile and will always remain a significant risk, and that risk needs to be monitored. However, there is no question that the work of the Circle – tough, challenging and modelling appropriate adult relationships – has achieved what treatment failed to touch. It was the relationship with his daughters that was the key to developing a degree of empathy towards others. Over a year later the Circle continues with the lives of all involved enriched by the experience, while the safety of the community is enhanced.
Restorative justice and rehabilitation

This section on offenders has concentrated on restorative work concerned with the harm offenders have caused to people. Of course, other, more traditional kinds of rehabilitation work are still immensely important, such as help with accommodation, drugs, alcohol, literacy, work skills and so on. These are known to help prevent offending. Often they are identified through a restorative process, and victims are concerned to know whether these resources (e.g. help with drugs) are available, so that offenders can avoid future offending.

One of the results of restorative processes may be to increase offenders’ motivation to make use of such resources. For instance, doing victim awareness work, or meeting the victim, can lead to a greater commitment to deal with an alcohol or drugs problem, as the example below shows.

Case study: Mediation and alcoholism

Garry was a long-standing alcoholic in his fifties, and had been in and out of prison, mostly for theft. He worked in the building trade and used to hire equipment from tool hire companies. At one point, he sold an expensive piece of equipment to buy money for drink and to pay his debts. He was given a short prison sentence.

A mediation was arranged in the prison between him and the owner/manager of the tool hire company, Tony, who wanted to meet Garry and see if he could steer him away from further thefts. The meeting went very well and Tony gave Garry his card so that he could still hire tools when he came out of prison.

When Garry was released, all went well at first, but he soon got into debt and started drinking again – and sold another piece of equipment. He was sent to prison again. Tony was furious – ‘I thought we did a mediation and sorted it all out! I want to give him a piece of my mind!’ So another mediation was arranged in the prison. This time Tony talked to Garry about how his company was affected (it was a lean time), and also about how Garry really needed to sort out his drink problem.

Garry really took it to heart and when he came out of prison again, he went to Alcoholics Anonymous regularly and kept off drink. He stayed out of debt and managed to get a housing transfer to an area to which he had wanted to move for a long time.

There is another case study involving rehabilitation (from a drugs problem) in Chapter 8, pp.180–1.

Alternatives to Violence Project

The Alternatives to Violence Project (AVP) is based on the belief that everyone has inside themselves the creative power to transform violent situations. The workshops (usually three days long) build on everyday experiences to move away from violent or abusive behaviour by developing other ways of dealing with conflicts. The Level One workshop covers:
building self-esteem, affirmation, trust and cooperation

exploring methods of communication

learning about creative resolution of conflicts.

Level Two workshops focus on the underlying causes of violence, such as fear, anger, stereotyping, power and powerlessness. They take a deeper look at ways of resolving conflicts, including communication and forgiveness. Some people go on to train as facilitators by doing a third workshop (Alternatives to Violence Project 2001).

All facilitators work as volunteers. It is open to prison inmates to participate in AVP in the same way as others, so that they can both learn and teach others the skills of non-violence. Participants must also be volunteers and not be under any compulsion to attend. Prisons need to be able to make the necessary practical arrangements for the workshops to run. AVP works through local groups who organise the workshops in partnership with their local prison.

An article ‘How Restorative is AVP?’ (Bischoff 2001) looks at where exercises can be more focused on victim-impact work, and at the way former offenders can give back something to the community by becoming volunteer workshop facilitators.

Although AVP is best known for its workshops with offenders, it has also been used successfully with victims, for example mental health clients.

More information about AVP and a case study of a workshop can be found in Chapter 10.

**Nonviolent Communication**

Nonviolent Communication (NVC) is a model of communication which focuses on people in conflict moving from blaming each other to expressing their needs so that these can be better met. It was developed by Marshall Rosenberg, who describes the model as working with people through the following stages:

1. The concrete actions we are *observing* that are affecting our well-being.
2. How we *feel* in relation to what we are observing.
3. The *needs*, values, desires, etc. that are creating our feelings.
4. The concrete actions we *request* in order to enrich our lives.

(Rosenberg 2005, p.7)
Case study: NVC with prisoners

In the UK Jo McHale and Pat Dannahy have been using this model to help young offenders, as the examples below show:

- With Prisoner A, we took the role of a ‘hate’ figure and listened to his intense antagonism towards us. As he received empathy and understanding in return, he began the process of seeing the situation from a different perspective.
- With Prisoner B, we supported him to prepare for a dreaded court appearance so that he was able to anticipate it with greater equanimity.
- Prisoner C was plotting violent revenge on a family member for a perceived betrayal. As he received empathy for his pain, he began to see the possibility of other options.
- Prisoner D described the angry and hurtful communication he had with his ex-partner over his access to their child. We used NVC-based role playing to enable him to practise different ways of responding to her while still protecting himself.

These examples show how NVC can prepare offenders to handle situations better and avoid creating further victims. It can also be used to help victims of crime, as shown in the application to mediation below.

NVC can be used to structure a restorative mediation or conference, by applying the communication method in the following steps:

1. In advance of the meeting, the facilitator coaches the offender to express him- or herself in terms of feelings and needs – and to hear the feelings and needs behind whatever the victim may say. If possible, the facilitator will coach the victim in a similar way.

2. At the meeting itself, the victim articulates the pain that he or she feels in relation to the offender’s actions. The offender, with the support of the facilitator, reflects back to the victim all those feelings that are still alive in the victim in relation to the offender’s action(s), until the victim feels fully understood.

3. The offender says what he or she genuinely feels in response to the victim’s feelings, and also tries to articulate those of his or her own needs that were not met by his or her actions.

4. The offender explains what was going on in him (or her) when he or she committed the offence; that is, the feelings and needs that led him (or her) to act in this way. The victim reflects back to the offender the feelings and needs that were alive in the offender that led him or her to act as they did.

5. If appropriate, the victim and offender make specific requests of each other.

(McHale and Dannahy 2004)
Summary
This chapter has looked at ways in which work with victims and offenders separately can follow restorative principles, putting right harm caused (as far as possible) and preventing re-offending. In many situations this work is needed before restorative meetings between victims and offenders take place, which is the subject of the next chapter.

References
Victim Support (2006b) http://www.victimsupport.org.uk/vs_england_wales/services/witness_services.php
Models of Restorative Justice Involving Victims and Offenders Together

Introduction
This chapter looks at the different models of restorative justice which involve victims and offenders together. What they all have in common is that they seek to put right the harm for the actual victims of the crime concerned.

All the models are underpinned by a restorative ethos, and aim to restore the harm caused by crime. None of them are ‘cast in stone’ and they can be used with each other as appropriate. Each of them has been developed to serve a particular purpose, and all are in current use somewhere in the world – and almost all of them are to be found in the UK. There may be more models than the ones described below, as new ones are being invented all the time. Each model is described briefly and then illustrated with a real-life case study.

Victim–offender mediation (direct)
Victim–offender mediation is a process in which an impartial third party helps the victim(s) and offender(s) to communicate, either directly or indirectly. The mediation process can lead to greater understanding for both parties and sometimes to tangible reparation.

One commonly used victim–offender mediation process has the following stages:

Separate meetings:

1. Visit offender(s) and victim(s) separately, assess suitability. All options discussed.

2. If appropriate, preparation for direct mediation, including discussion of ground rules.
Joint meeting:

1. Opening statement, introductions 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.
6. Closing session, arranging follow-up.
7. Mediators debrief.

Victim–offender mediation is most usually undertaken with one victim and one offender, although both may bring supporters. But it can also be done with larger numbers (multi-party mediation). In the UK it developed in parallel with community mediation, using the model above adapted from one developed by Friends Conflict Resolution Programs (Beer with Stief 1982). Training in its use includes much on conflict resolution skills, so it is particularly suited to situations where, even if the offender takes responsibility, the roles of victim and offender are not clear-cut (e.g. there has been provocation or both are at fault). It is also useful where both victim and offender have a part to play in its resolution.

**Case study: Direct mediation – goods stolen on a ferry**

This case was referred by a Youth Offending Team to a local mediation service (with whom they had a contract) because the offender wanted to apologise. He had stolen about £500 worth of goods from an on-board shop on a ferry, and had been stopped and charged with theft as he was leaving the ship.

Two mediators visited him at home and talked through the crime and its consequences for him, his family and his future. He wanted to get a job and move on. His mother was ashamed of her son, and supportive of the mediation taking place. The young man wrote a letter of apology, which was a struggle for him because his literacy skills were not very good.

The mediators wrote to the ferry company, requesting mediation, and received a letter from the security manager inviting them to talk to him about it. During the visit they presented the young man’s letter, and the security manager asked to meet the offender. He had teenage children and wanted to be helpful – but also wanted the opportunity to talk to the offender about the consequences of the theft on his staff, the company and the public.

The offender was very nervous on the drive from his home to the company HQ, but was still keen to go through with it. He made a good apology and listened well to all that
was said. It was all the more powerful for the fact that the goods he had taken were brought out from a cupboard and laid out in front of everyone.

At the end of the interview, after 25 minutes, the offender stood much more upright – he was very pleased to have faced up to his crime and taken responsibility for it. His Youth Offending Team worker saw him later that day and was very impressed with the change in him.

Case study: Direct mediation – assault

This case was referred by the YOT to the local mediation service. Jenny, aged 17, had received a Reparation Order for common assault on Kelly, aged 16.

When the coordinator of the mediation service and a co-mediator visited Jenny, it appeared that this offence was part of a five-year history of antagonism between the two girls. Jenny explained that Kelly had spoken about her in a derogatory manner, and this had angered Jenny, so she confronted Kelly on the school bus on the way home. The situation had continued with Jenny confronting Kelly every time Kelly made further derisory comments. Jenny was frustrated by what she perceived as Kelly’s lack of courage. She wanted the opportunity to talk about what happened and get some answers to the questions she had. This seemed positive, but we were concerned that Jenny seemed to be blaming Kelly for getting hit, so we carried out some victim empathy work.

While this work was in progress, we also contacted Kelly to hear how she felt about the offence and what she wanted to happen. Kelly met us with her mother and was clearly shaken by the incident. Her mother was feeling very protective towards Kelly and had been to Jenny’s place of employment, to ‘let them know just what kind of a girl they had employed’.

Kelly explained that, over the years, Jenny had behaved in a very confrontational way, which scared her. Both Kelly and her mother had asked the school for help on several occasions, but this only seemed to make the situation worse. Every time Jenny had got into trouble, she seemed to target Kelly more. Kelly’s school work had suffered and, even when Jenny left school, Kelly could not relax as they lived near each other and she was always being told that Jenny was ‘looking for her’.

Things came to a head on the evening of Kelly’s school leaving party. She and her friends met up at the party and then decided to move on to a local night club. Once there Kelly realised that Jenny was also at the night club. A friend of Jenny’s came over and told Kelly that there would be trouble if she stayed, so she should leave. Usually this is what Kelly chose to do; however, emboldened by alcohol, she decided to confront Jenny and ‘have it out with her once and for all’.

Kelly and Jenny accused each other of many things that had occurred over the years. The anger rose and Kelly started to walk away. Jenny wanted to stay to thrash out the disagreement until a solution was found, and grabbed Kelly and told her to stay. Kelly continued to pull away, accusing Jenny of bullying her. This was the final straw for Jenny and she hit Kelly in the face.

At this point both girls went home. On waking, Kelly had a black eye and a swollen face. Kelly’s mother asked what had happened. On hearing this she immediately phoned the police. Statements were taken and Jenny was charged with common assault.
Kelly said she was scared of meeting Jenny as she had been told that Jenny was still angry and wanted revenge. We discussed these concerns and asked what we could do to put her mind at ease. Kelly said she would only go if her mother could be there as support. After checking that this was acceptable to Jenny, we started making arrangements. We explored what ground rules both girls felt they needed, and what venue and area they preferred, and organised a date, time and place for the mediation meeting.

At the meeting Jenny and Kelly were both feeling very nervous and the meeting started very slowly with both very reluctant to share their thoughts. With some gentle encouragement, they began to open up and both talked about the past five years and the effects this had on each of them. The anger began to rise in the meeting, but this needed to be expressed before they could think about moving forward.

As the meeting progressed, both discovered that some of the incidents had been exacerbated by other people, generally a group of mutual friends living nearby. A realisation also emerged that the two had very different ways of dealing with conflict. As Jenny put it, ‘I want to go straight to the person and yell at them to stop, whereas you can ignore it.’

Jenny was surprised and horrified to hear that Kelly had spent four years of her school life living in fear. She acknowledged that on reflection she could understand how her behaviour could scare people, but had never thought about it before. A sincere apology followed this. Jenny promised she would be much more thoughtful in the future and not ‘barge into situations’. Both Kelly and Jenny felt that too many others had been involved in their problems and this had made it worse. They both promised that in future they would stop listening to hearsay and talk to each other.

The agreement focused on the apology and action in the future. At the end of the meeting Kelly’s mother turned to Jenny and said, ‘I thought you were just doing this for an easy ride. I can see it wasn’t so easy. I think you’ve been very brave today and I would like to offer you a lift home.’ The participants left together and the situation was still very positive a month later.

**Victim–offender mediation (indirect)**

Although direct mediation is often held up as the ‘ideal’, for many situations indirect mediation is more appropriate. Many victims do not want any direct contact with their offenders, but welcome letters of apology, compensation or some information from the offender via a third party. It is sensitive work in that the mediators take messages from one to the other, and have the responsibility of presenting these messages accurately and constructively.

Where letters of apology are written, it is important that these are genuine, written by the offenders themselves (even if they need help) and address the concerns and questions of the victims. They are usually delivered by the mediators in person, so that victims have some support while receiving them. They may also want to send a message in return. Some services also use audio or video tapes instead of letters.
Case studies: Indirect mediation

Indirect mediation – information
A young offender committed a serious robbery, in which the victim suffered loss of belongings and a broken hip. The offender received a three-year custodial sentence. However, the victim was fearful of being recognised by the offender after his release. She did not want any communication with him, but wanted some reassurance about this matter. The victim liaison officer contacted the offender in custody – he was ashamed of what he had done, and said that, as it had been dark when the offence occurred, he would not be able to identify the victim again. This information was passed on to the victim, who felt reassured.

Indirect mediation – communication by letter
A young offender was sentenced to six months at a Young Offender Institution for theft of a vehicle. The offence was aggravated by the fact that the young person had been lodging with the victim and his son at the time. The victim wanted to communicate indirectly with the young person and the victim liaison officer visited him in custody. He took a letter from the victim offering forgiveness and this had a big impact on the young person, who had had a difficult background. The process was clearly of great benefit to the young person, and the victim too was pleased to have been involved.

Indirect mediation – letter of apology and possibility of video conference
Three young people robbed a pizza delivery man. The two younger female offenders received Referral Orders, and the 19-year-old male received a prison sentence because he had hit the victim with a cricket bat prior to taking the pizza. The victim was badly hurt and very fearful of meeting any of the offenders again, and he asked the victim liaison officer to go to the Youth Offender Panels for the girls to tell them how he felt. This resulted in a written expression of remorse from one of the girls, which was available to the victim. He also asked if this could also be facilitated with the main offender, so steps were taken to investigate the possibility of a video conference connecting the victim liaison officer and the offender, as the prison was a long distance away. However, in the end the victim did not want to pursue this, or read the girl’s letter, as he felt he had got enough from the process already and was very grateful.

Indirect mediation – shuttle mediation to arrange compensation
A fight broke out between two drunk men and one of them had his teeth badly damaged. Not wishing to meet directly, a form of ‘shuttle’ mediation took place between the two, located in separate rooms. Financial reparation of several hundred pounds was agreed to fund the cost of dental work.
Victim awareness work leading to communication with victims

The example given in the last chapter of victim awareness work with individuals can also lead to communication with victims. Where victims are willing to pass on information to the offender, offenders can become more aware of the suffering they have caused by looking at the harm caused to their actual victim. This can sometimes lead to indirect or even direct mediation. Following on from the work with the young offender described in Chapter 3 (see ‘Case study: Victim awareness work (individual) – Youth Offending Team’ pp.63–4), the practitioner continues:

After making sure that the young person’s letter of apology addresses the particular concerns of the victim, I check with the victim contact worker whether the victim wants to receive the letter. If so, the victim contact worker sends the letter off and follows it up with a telephone call to check that the victim has received it, and asks if they want to follow it up in any way. Sometimes the victim does respond. In this way I hope that victims can have their questions answered and be less fearful of further crimes against them.

Another practitioner adds:

I find it important that the young person knows in advance whether the victim is going to receive the letter. This makes it more realistic. Sometimes, if a young person has already started work on a general letter, s/he may need to rewrite it in the light of information about the actual victim and their circumstances.

Community mediation

Sometimes offences are referred to community mediation services, where police have special links with them, and they decide that there is no public interest issue. In these cases, instead of arresting the offenders, the police refer it to the local community mediation service. In the case below, the victim was reluctant to report the offence to the police and asked for help from the mediation service instead. Sometimes cases can arrive via other agencies, such as local authority housing departments.

Case study: Diversion to community mediation – stolen apples

This case is related by the victim.¹

One year on our return from our summer holiday, we saw that our six cordon apple trees, full of beautiful organically grown apples, had been stripped bare. The apples weren’t

¹ This account has been abbreviated from a case which appeared in Liebmann, M. (1998) Community and Neighbour Mediation. London: Cavendish Publishing Ltd, now out of print.
ripe, so it seemed to us an act of pure vandalism. We were devastated. We suspected some lads in our street. However, we were reluctant to go to the parents, in case we were wrong in our suspicions, and this then created bad feelings. We thought about reporting the theft to the police, but did not feel happy at the idea that our neighbour’s son might acquire a criminal record.

We found out through the ‘school grapevine’ that the apples had indeed been taken by boys in our street (although different stories implicated different boys) – to play apple cricket! We asked the local community mediation service to look into the matter, to ascertain who had taken the apples and if possible to arrange a meeting to sort things out.

Two mediators came and listened to our story, then called on the three neighbours whose sons we suspected of taking the apples. They had all been involved, although to different degrees. When they heard how upset we were about the apples, they all wanted to apologise.

The mediators shuttled between the four families to arrange a date and time for a meeting. This took place a few days later in a local church hall, and included ourselves and our daughter, and the three sets of parents and their sons (all the young people were in the same year at the same school).

The mediators asked us to outline our view, and then asked each boy in turn to say what happened. We could see it wasn’t easy for them, as they told us the details and mumbled their apologies. They said they hadn’t realised how important and special the apples were for us. We realised they couldn’t bring them back, or afford to replace them all, so we asked them to bring us a bag of eating apples and a bag of cooking apples at some point in the autumn. We also asked if they could help clear some undergrowth from the back alley behind our house. The other parents asked us to contact them directly if anything similar happened again. This was all included in a written agreement which everyone signed.

The next week was a school half-term holiday, and the boys cleared the back alley as arranged. A few weeks later, first one and then another rang the doorbell to deliver a large bag of apples, before dashing away in embarrassment. It was a relief to have the matter completed so that we could put it behind us and get back to a good relationship with our neighbours.

Community mediation can also help to sort out many cases which, if left to escalate, would result in crimes. One such scheme in Devon has an experienced mediator/facilitator who arranges mediations and conferences to prevent the escalation of difficult community situations.

**Case study: Crime prevention – community conference on football**

The community conflict was around the use of an open space in a seaside town. The sloping green space was bordered on one side by a road, on two sides by social housing and on one side by a large detached house. The only flat piece of land in this space was next to the large detached house, which was occupied by an elderly couple. The nuisance was being caused by a group of teenagers who played football on the flat section and the
younger children (4–12-year-olds), who kicked their balls up and down the slope, running into the road and damaging fences and gardens when balls went astray. When adults scolded the youngsters, they were sometimes sworn at. Occasionally youngsters threw stones or rubbish into people’s gardens in retaliation.

At the first community conference there were 45 people in attendance. There were three main stakeholder groups: the agencies, the young people and the local residents. Issues were shared and two main agreements were reached:

1. The young people needed somewhere safe to play football where they would not be in danger from the road and where their balls would not cause a nuisance.

2. Anti-social behaviour from the young people had to stop immediately.

The district council said they would look at options and report back to the community.

A second conference was held eight weeks later – this time 50 people came. The council presented a plan to put a kick-about area on to the site, which was widely accepted by those who attended. A victim statement from the elderly couple in the detached house was read out to the teenage group. They agreed to stop playing outside the house until the kick-about area was installed. After four months they were still keeping to this agreement. As a reward, the local Community Safety Partnership arranged for them to spend an afternoon having a private training session at the nearest city football club.

Victim–offender conferencing

Many different names are used, such as:

- victim–offender conferencing
- community conferencing
- group conferencing
- small and large group conferencing
- restorative conferencing
- diversionary conferencing.

They can involve small numbers of people – one offender and one victim – or a large number, including several victims and offenders, their families and members of the community (e.g. teachers, youth workers, community police). Sometimes this means a whole roomful of people. Usually people sit in a horseshoe shape with the facilitator(s) at the open end of the horseshoe, as it is important (as in mediation) for everyone to be able to see each other. The facilitator contacts everyone before the conference to invite them and go through the process. In some schemes, people are telephoned, but in many schemes, facilitators visit everyone to prepare them for the conference.

Conferencing was originally developed by Terry O’Connell of Wagga Wagga Police, New South Wales, Australia, and the model was initially known as the ‘Wagga model’. He developed a ‘script’ to be followed by conference facilitators, and this was
adopted by Thames Valley Police and subsequently Nottingham and Surrey Police in the UK. It has also been the model used by other organisations, such as Real Justice and the International Institute of Restorative Practices (IIRP), and is used widely in schools in Australia, the US and now the UK. Below is one version of the script:

_Restorative conference script_

Use this script as a starting point for your facilitated conference. You will need to adapt it to your particular circumstances, adding and leaving out questions where appropriate.

**Introduction**

Welcome. As you know my name is …………

Before the meeting begins, I will introduce everyone [if appropriate] and say why they are here.

(The facilitator will have normally already discussed with participants how they wish to be addressed and this is how they should be introduced. Ensure you introduce all participants.)

This meeting will look at what happened on [day/date] at [place] when [brief description only]. It is important to understand that the meeting will focus on what [the offender/s] did, and how their (unacceptable) 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 all 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**

[If appropriate, explain ground rules/remind participants of agreed ground rules from preparation.]

**Accounts**

[Ask each person in the conference what happened. If there is an identifiable ‘offender’, start with them.]

**To offender(s)**

[If there is more than one offender the questions can be asked alternately between offenders so that one offender is not always first.]

I will start by asking [offender] to tell everyone what happened.

What did you do?

What did you do then?

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2 Real Justice is now a programme of IIRP.
What were you thinking at that time?
What were you feeling at that time [e.g. when you took the stereo]?
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?
Do you think [name of e.g., victim – where the offender has not mentioned them] has been affected by your actions?

Thank you for what you have told us. We will now 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 [in this order]

How did you become aware of what happened? [Don’t use this if the answer is obvious.]
What were you thinking at that time?
What were you feeling at that time?
What have your thoughts been since that time?
How do you feel now?
What has been the hardest thing for you?
Who else has been affected by this?

To offender(s)

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 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? [This is a closed question; do not look for the offenders to come up with suggestions at this point.]

Agreement

It is important that we consider what needs to happen to repair some of the harm caused.

To victim(s), victim supporters, offender supporters [in this order]

What do you want to come out of this meeting?

To offender(s)

You have heard what has been said. What do you think needs to happen?
What do you think is the right and fair thing for you 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, [name of individual] has agreed to [state clearly any actions agreed even if only a verbal apology]. Is that correct?

To all

How do you feel about what has been said?

(Walker and Walker 2006)

Other restorative justice organisations have adopted very similar scripts. The Youth Justice Board has included a script in its training pack ‘Panel Matters’ for community panel members running Youth Offender Panels, and reproduced it in the Youth Justice Board guidance on restorative justice (Youth Justice Board 2003). Some organisations have developed more detailed scripts for facilitators, as well as scripts to take into account situations where harm has not been acknowledged, for use in the community, workplace and schools.

At the end of a conference, refreshments are often served, so that people can interact informally and build social relationships. This element has been taken from traditional processes of Aboriginal and Maori people in Australia and New Zealand. It also gives time to write up the agreement ready for people to sign.

If the victim is not present, then the conference facilitator makes an input based on what he or she has said during a phone call or visit.

The strength of the conference model is the inclusion of all the relevant people such as families and community members. Thus the community can be truly involved in sorting out the aftermath of offences and play a role in working with the offenders. The drawback is the time-consuming (and therefore expensive) nature of this process, especially if each person attending is properly prepared. The script provides consistency but this can also be seen as somewhat rigid.

The scripted conferencing model is also more suited to cases where it is clear-cut who the offenders are and who the victims are, because they are treated very differently in the process. It provides a ritual for dealing with such cases in a restorative way. However, it is not so useful in cases where there is conflict and dispute, where the mediation model may be more helpful.

SMARTER stands for: Specific; Measurable; Achievable; Realistic; Time related; Engaging; Reviewed.
Case study: Conferencing – escalation in playground

Four 15-year-old boys beat another lad unconscious when a playground argument got out of hand. Charges of actual bodily harm were initially considered by the police, but in the end a conference was arranged, attended by the boys and their fathers, together with the victim and his parents. The offenders were very remorseful about what they had done and their fathers were clearly shaken by photos of the victim’s injuries. The boys apologised, promised not to bother him again and agreed to pay for the damage to his clothes and a new mobile phone. There was no further trouble.

Case study: Conferencing – village brawl

In a moderately sized Oxfordshire village, a chain of events began one afternoon with a minor assault on a young man, and continued into the evening with a further assault on a girl, and several incidents of public disorder, criminal damage and theft. In total, four teenage boys, all residents of the village, were responsible for a whole string of offences.

The incident was reported to the police and the four young men were arrested, interviewed and reported for the offences. They all fully admitted their part in the incident and, as they had no previous convictions, they all received a Final Warning which was duly administered at the local police station.

Local residents were outraged by the fact that none of the defendants had been taken to court and the general feeling was that the boys had been ‘let off’. As a consequence, open hostility broke out and the area police beat officer became embroiled in a bitter feud between the residents and offenders.

As the situation became increasingly hostile for all the families and residents affected by the incident, the area beat officer contacted the HQ restorative justice department to arrange a restorative conference to resolve the situation.

The conference was held in the village hall and lasted approximately two hours, with a further hour of informal discussion between participants over tea and coffee. All participants expressed how they had felt on the night, and pointed out how the young men had affected the entire village directly and indirectly. The young men apologised to everyone involved, and this was accepted.

They further agreed to do reparation work for the local school to repair the damage to the community. They also agreed to help at the youth club held at the village hall for younger children. There had been consistent problems encouraging young people to attend, as it was perceived to be run by ‘old people’. It was felt that having the young men present there, helping with the club, would encourage younger people.

All expressed satisfaction with the outcome and gratitude to the police for arranging the conference.

Family Group Conferences

Child welfare cases

Although these Family Group Conferences (FGCs) are not concerned with restorative justice in the criminal sense, they were developed first for child welfare cases and are therefore important in understanding the model as used in criminal cases. They are also
restorative in the sense that they propose a less punitive way of working with families seen to be failing by social services. For example, they can be implemented as an alternative to children being taken into local authority care.

Here is a definition of an FGC:

An FGC is a decision-making process that focuses on who makes plans for children and how those plans are made. In an FGC the child and his or her family form the primary planning group, with professionals using their expertise to provide information to the family, enabling them to make a plan which meets the needs of the child/young person for whom the conference has been convened; and in the process of this, to meet the expectations of Social Services concerning good enough care. This approach emphasises the skills and expertise of all those involved and highlights the importance of including everyone connected with a child/young person in the planning process. The FGC allows families to find their own solutions to the difficulties they are facing. Its intention is to provide a practical approach to partnership between families and professionals. (Family Rights Group 1998, p.14)

The model has four main stages:

1. **Preparation.** The coordinator, in consultation with the child and the immediate carers, identifies the family network and prepares them for the meeting. The coordinator also makes contact with relevant professionals to ensure their attendance, and asks them to prepare information on resources available.

2. **Information giving.** At the start of the meeting, professionals share with the family any relevant information/assessments they have about the family, any concerns they have, their statutory duties and responsibilities, and any resources available.

3. **Private family time.** The coordinator and professionals withdraw, leaving the family to plan in private. The family has three tasks:
   - to agree a plan that meets the needs of the child/young person and addresses any concerns that have been raised
   - to agree contingency plans
   - to agree how to implement, monitor and review the plan.

4. **Agreeing the plan.** The coordinator, professionals and family all meet together to consider and agree the plan, to agree who is responsible for each part of the plan and to negotiate resources – including what should happen if the agreement breaks down. (Family Rights Group 1998, pp.14–16)

FGCs can be used in a wide variety of circumstances, whenever a plan or decision needs to be made about a child. They are quite resource-intensive in terms of professionals’ time and the time needed for preparation, but the plans made by families can often save expensive residential fees or care placements, so they can be very cost-effective.
Case study: Family Group Conference – child welfare case

The family in this case consisted of Sandra and her three children: Harry, aged one; Tammy, aged two; and Trudi, aged four. The children’s father was from the Gambia. He had returned there following a death in his family and was unable to regain entry into the UK.

Sandra and her children moved in with her stepfather in order to pay off debts and begin a drug-free life. However, ongoing drug use and the accompanying lifestyle caused the situation to deteriorate to the point where the stepfather asked Sandra and the children to move out. Feeling that no other options were available to her, Sandra voluntarily placed her children into foster care.

Social Services referred the case for an FGC, but Sandra disappeared and Social Services began to look at possible adoption of the children. Fortunately the FGC coordinator was able to locate not only Sandra but also a number of extended family members—all very concerned about the children and interested in participating in the Family Group Conference.

While family members expressed a desire for the children to live with them, they also expressed concern over their ability to take on the additional financial burden—particularly since caring for the children would result in one less wage-earner contributing towards household expenses. This concern was passed back to the social worker in order that information on potential financial assistance could be obtained and relayed to the family at the meeting.

Another potential snag came in the form of Sandra’s disappearance several days before the FGC. Fortunately, she rang the coordinator on the morning of the meeting, very nervous but wanting to be there. The coordinator was able to get her location and sent a taxi that delivered her to the meeting.

The plan developed at the meeting was that the children would live with a great aunt and uncle using the kinship care support package offered by Social Services, while the children’s grandfather, aunt and second cousin would provide respite care. Sandra agreed to participate in a drug treatment programme. And the family agreed to facilitate regular contact between Sandra and her children.

The plan was set to be reviewed three months later. All aspects of the plan moved forward as planned, and Sandra also managed to find a flat close to the children, enabling regular contact.

Criminal cases

New Zealand pioneered the use of FGCs with young offenders (see Chapter 11). It became apparent that many of the young people committing crimes were the same ones that Social Services were concerned about. So the FGC model was adapted to include resolution of the offence and prevention of further offending, alongside the welfare and family needs. In New Zealand, almost all youth crime is diverted from court: some is diverted completely and some is diverted via FGCs.
In the UK, the main centres for FGCs have been the Essex Family Group Conferencing Service and the Greater Manchester Youth Justice Trust Family Group Meetings Project (however, the latter closed in March 2006).

The Essex model consists of preparation with the young offender and his or her family, victims and supporters, and relevant agency staff; then a four-stage Family Group Conference:

1. Victim and offender dialogue; information-giving by professionals. Then the victim withdraws.
2. Welfare issues debated.
3. Private planning time for the offender’s family group.
4. All parties come back together to discuss the plan.

(Judge et al. 2002, p.14)

The Greater Manchester model was similar, but drew less distinction between criminal and welfare issues, which can often overlap. The project limited the number of professionals and the first two stages were intertwined as one stage, for which the victim remained present unless there were confidential issues for the offender. In both models the family planning time is central to the structure of the process.

**Case study: Family Group Meeting – bag snatch**

Paul was a 17-year-old young man who was due to draw his wages from the cash machine near his work at Manchester Airport. Unfortunately his money was not available. He met up with an old friend Max who said, ‘I know another way of getting money’.

Paul stood outside the ladies’ toilet at Terminal 1 while Max entered the toilet, reached under a toilet door, grabbed a handbag and ran outside. Max then threw the bag to Paul and both ran away.

The victim of the theft was a 74-year-old, Mary, about to fly out for a two-week break in Majorca. She gave chase and screamed at the offenders to stop. Paul was apprehended by the police and Max was apprehended by holidaymakers. The bag was recovered. It contained holiday money, passports and an asthma inhaler.

Mary was able to go on her holiday. Both young men appeared in court. Paul pleaded guilty and was made subject to an Action Plan Order (see Chapter 7). His YOT worker referred the case for a Family Group Meeting (FGM). Max pleaded not guilty and, despite police identification evidence, was not convicted.

Mary was contacted by the FGM project and the potential FGM was explained. She was able to take her time to make up her mind, and on a follow-up visit asked if her daughter could attend in support. This was agreed and both were visited to prepare for the meeting.
The meeting took place in the evening at a neutral venue. Mary attended with her daughter. Paul attended with his mother, aunt and cousin. His YOT worker also attended. A trained FGM facilitator from the project facilitated the meeting.

Mary was able to tell quietly the full impact of the offence on her and her family. She was able to explain the consequences it had of limiting her independence and creating a restricting sense of vulnerability. Her confidence had been dealt a blow and she felt angry, not just at the offence itself but also at the attempts of those around her to ‘protect’ her now by limiting her movements.

The YOT worker then reported some of their concerns with respect to Paul and identified some services which were available to address these issues.

Paul sat and listened to both Mary and her daughter. He explained some of the background to the commission of the offence and answered the questions that Mary asked.

Paul and his family then adjourned to draw up a ‘Family Plan’ to address the offending behaviour and the issues raised by Mary and the YOT worker. Then the content of the plan was fed back to the entire meeting.

Mary was able to see at first hand the efforts that Paul was making to rehabilitate himself and to appreciate the level of support offered to him by his extended family to achieve this. She was greatly reassured by this.

At the end of the meeting Paul offered a heartfelt and sincere apology to Mary for the harm and distress he had caused. Mary accepted the apology and wished Paul well for the future. The meeting ended with Mary and her daughter crossing the room and embracing Paul and his mother.

**Victim impact statement – effects of crime**

**Emotional**
- Loss of sleep for a couple of nights – reliving events.
- Nerves, lack of confidence.
- Upset companion.
- ‘What if?’ syndrome.

**Financial**
*If the bag had not been returned then the consequences would have been more devastating. My holiday and that of my companion would have been destroyed. I have very little income and save diligently for my holidays.*

**Psychological**
- Again, the ‘what if?’ syndrome.
- Reliving events.
- Wanting my family near me but unable to have them do so.
- The holiday was clouded by the robbery.

**Questions**
- Did you consider the consequences of your actions?
- Did you believe your friend when he said ‘I know how we can get some money’?
• Did you consider your mother’s feelings?
• What do you think you have achieved from your actions?

**Family plan**

**Paul**

Now I know to choose my friends more carefully. The ones who are likely to offend, I try to avoid them. I am sorry I was involved in the offence and looking back I wish I had refused to take part. Because of all the upset I have caused, various people are disappointed in me but they are prepared to stand by me and help me. I have always enjoyed school and work and hope to be successful in September when I start my course with Skills Solution.

In the future if I went for money and couldn’t get it I would go home and ask my mother to borrow some.

**Paul’s mother**

Paul knows that he needs to be kept away from people who encourage him to do wrong. I am trying to influence Paul to go with the right people. Paul has learnt that if he has no money he can always rely on myself to support him whatever.

We are looking forward to a better future and to put this lapse behind us once and for all.

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**Case study: Family Group Conference – offending spree and family tensions**

This took place in the Essex Project. Ben was a teenager from a family where his older siblings had never been in trouble with the law. During a period of a month Ben committed several burglaries (of commercial premises), thefts, damage, taking a motor vehicle without consent and handling stolen goods.

Ben’s offending led to many family tensions. As the picture became more complex, an FGC seemed indicated. His mother, father, two victims, Ben’s youth offending worker and the FGC coordinator attended. After much discussion, the family withdrew to make a plan. This included:

• reparation to the victims: letters of apology and a meeting to discuss tangible reparation
• following up an interest in sports
• family boundaries to prevent re-offending
• changing peer group
• education.

One of the victims was extremely angry at the conference, but having vented this, he listened to what Ben had to say, and then offered to help him with his sporting interests. Community reparation was discussed, and a project was found that used some of Ben’s interests and also satisfied other victims.
Youth Offender Panels (following Referral Orders)
The Youth Justice and Criminal Evidence Act 1999 brought in Referral Orders (made operational in 2001), which are made by courts for a period of time between 3 and 12 months. Referral Orders can only be made after a guilty plea. The courts then refer the young person to a Youth Offender Panel (YOP) (sometimes called a community panel), which meets in an informal setting away from the court. The people involved in this meeting are the young person, their family, the victims if they wish (but there is no pressure to attend), a member of the Youth Offending Team (responsible for preparations for the meeting) and two panel members drawn from the local community (and trained for this work), one of whom chairs the panel meeting. Other relevant people may also attend, such as a teacher from the young person’s school.

The meeting considers the circumstances leading to the offending behaviour and the effect of the crime on the victim. It discusses the young person’s lifestyle and changes that could help prevent re-offending. It also considers any implications for the future – for the victim, the offender, their families and any relationships between them. The panel then agrees a contract with the young person, including reparation to the victim or to the wider community, and a programme of activity designed primarily to prevent further offending. The aim of the Referral Order is for the young person to accept responsibility for his or her offending behaviour and to consider – along with those with a positive influence over the young person – how to deal with the causes.

The guidelines for panel meetings are very similar to the conferencing model described above. The main difference is that they include more questions about the reasons behind the offending, and the agreement includes activities to prevent re-offending, in addition to reparation to the victim or to the community. Victims are invited to the panel meeting and often leave at the point where reparation has been agreed, before the discussion of prevention of re-offending (Youth Justice Board 2003).

Some restorative justice theorists point out that, as the offender has to attend the YOP, he or she cannot choose whether to meet the victim. In this sense, YOPs may not be fully ‘restorative’, but some practitioners feel that the young person has an obligation to meet the victim if the victim wishes. Young people do have the option of returning to court; they may also be able to present a valid reason for not meeting their victim.

Further details about Referral Orders can be found in Chapter 7.

Case study: Youth Offender Panel without victim – attempted robbery

Jim was 14 when he received a six-month Referral Order for attempted robbery. It was alleged that he threatened the young victims with a knife. The parents of the victims were contacted. They did not want to attend the Panel Meeting, but did ask for a letter of apology from Jim, and signed by one of his parents – they were concerned that Jim’s parents might not be taking this seriously.
At the Panel Meeting Jim strongly claimed that he did have a school cutlery knife in his hand, but did not use it threateningly. However, he fully accepted that he had asked the victims for their bus passes and money, and that the boys were probably very scared. Initially, Jim’s father was very sceptical of the process, feeling that this was a case of bullying, not a criminal matter – he explained that something very similar had happened to Jim in school a few weeks before this offence, and that nothing had been done about that incident.

At his Panel Meeting, Jim agreed to the following contract:

1. To see the YOT police officer about the risks/consequences of carrying illegal weapons.

2. To complete 15 hours of community reparation, taking part in an anti-robbery video project. In the event, as well as completing the 15 hours, Jim voluntarily completed another six hours’ editing and finishing off the film that was made.

3. To write a letter of apology to the victims – Jim’s father accompanied him to this session at the YOT, and was very supportive. Jim’s father also signed the letter, as requested by the parents of the victims.

4. To see his YOT Officer on a regular basis.

A Review Panel Meeting was held half way through the Order, and Jim, who had difficulties with reading and writing, was congratulated by the Panel Members on his letter of apology. At the final Panel Meeting, Jim attended with his mother, father and younger brother. As well as discussing what Jim had done on the project, the video was also shown. This final Panel Meeting lasted for longer than the first Panel Meeting, and there was a strong sense of no one wanting the Panel to end.

**Case study: Youth Offender Panel with victim – theft of moped**

Nick (aged 14) was involved in the theft of a moped with two others. One received a Final Warning, and the other was not arrested. Nick received a six-month Referral Order. The victim of this offence was extremely keen to attend the Panel Meeting, and fully intended to request full compensation (£1200) from Nick and his family. At the first Panel Meeting, the victim talked at length about the impact of the offence on him financially – this was his foremost concern. The victim was very clear that he thought Nick had proved himself a highly resourceful young man by stealing his moped, and now he could prove this even further by getting a job and repaying him. The victim also pointed out that if Nick did this, and continued earning money, then by the time he was legally able to drive, he would be able to afford his own new moped. Nick was very remorseful in the panel, but he and his family were clearly worried about the prospect of repaying so much money. It was eventually agreed that Nick would repay £400 in total, as he was only one of three in this case, and the victim would pursue the others through the civil courts.

The victim also chose to attend the first Review Panel Meeting, where a first instalment was paid to him. However, what was interesting was that before the financial
reparation was discussed, the victim asked to hear how Nick was doing with the rest of the Order, and showed great concern when told that Nick was temporarily not attending school due to threats against him. At the Final Panel Meeting, though the bulk of the money was still to be paid, the victim’s first question was about Nick’s school situation. The remainder of the money was handed over, and the victim was very complimentary towards Nick and his family, and it felt as if a great deal of empathy had developed between them.

Case study: Youth Offender Panel with victim – robbery and assault

As Referral Orders are given for all first appearances in court (where a young person pleads guilty), they include some very serious first offences.

Emma was walking home one night with a friend for safety, when they were mugged by two young girls. Emma was pulled by her hair to the ground by one girl. Emma’s friend offered her wallet but her attacker said, ‘Nah, I’d rather beat you up first.’ At this they both began to panic as they realised they were in serious trouble. They both started to run, and Emma’s friend managed to escape and get some help. Emma was not so lucky – she was repeatedly punched and kicked by the two girls attacking her. Eventually they stole her bag and ran off, leaving Emma tear-stained and screaming on the pavement.

One of the offenders, Zoe, was caught and given a Referral Order in court, as it was her first offence but a serious one (a minor first offence would have resulted in a Reprimand from the police). Emma was asked if she would like to attend the Youth Offender Panel. The prospect filled her with dread but she also felt pity for Zoe and was keen to go. She said:

I was in such a fortunate position to have my say, and tell this girl exactly what impact her mindless actions during that November night had caused. No judge could have made the same impact I was about to have on her. Facing up to me was, in my eyes, the toughest punishment of all. To have to sit opposite me and apologise for beating me and stealing my possessions, and, further, explain her actions and reasons behind the attack, not only satisfied my need for justice but also my need to turn this most terrifying event into something more positive.

At the Panel Zoe explained to Emma that she had been having a hard time and had been drinking that night. It was the first time she had realised the effect of her actions on anyone other than herself. She apologised to Emma. Later she wrote:

I am genuinely sorry for what I did to Emma and also for the worry it must have caused to the people closest to her. I do respect Emma for coming to the panel – it was a brave thing to do. And I also understand the reasons she wanted to meet me. I am also glad that I attended the panel because seeing the effects my actions have on others will continue to make me think about what I am doing. It was my first and last offence. I hope that Emma can put this behind her and I think that meeting me might have helped.
Case study: Referral Order with victim involvement but no attendance at Panel – assault

A male victim of assault, Simon (in his late twenties), was contacted about attending a Youth Offender Panel, or having some other form of communication with the offender. The 17-year-old female offender had attacked the victim on a night bus for no apparent reason, while she was drunk.

Simon was very sceptical about attending the Panel Meeting, saying he had largely put it all behind him, but that he did have a number of questions he wanted answering about why she had assaulted him. As Simon did not wish to attend the Panel, these questions were put to the offender during a supervision session, and she provided answers that made sense to the victim.

However, the key issue identified by Simon was that he had been told by the police not to wash his fleece jacket (which had been spat on) as it might be required for forensic evidence. Six months after the offence, Simon had still not washed or worn it. Until the YOT made contact, no one had informed him that a trial had not been necessary and that he could wear his jacket again. Prior to this event, Simon had believed that ‘absolutely nothing’ happened to young offenders, and he became very interested in the work done by Youth Offending Teams. He was invited to spend an afternoon at the YOT, and met with almost all of the staff, which seemed beneficial for all. YOT staff noted that it was interesting to have to explain their jobs, not only to a member of the public, but a member of the public who had been a victim of one of their clients.

Approximately a year after the YOT visit, Simon contacted the YOT to ask if we would sponsor his London marathon run for charity, which the YOT did. Shortly afterwards a Panel was held for an offender who had committed a victimless crime and was unable to carry out any community reparation due to his work and college hours. He also agreed to sponsor Simon, in lieu of any community reparation.

Acceptable Behaviour Contracts

Acceptable Behaviour Contracts (ABCs) are contracts drawn up with young people in response to anti-social behaviour – noise, verbal abuse, drunken behaviour, hanging round in groups – some of which causes upset and distress to neighbouring residents. There is legislation to enforce the cessation of such behaviour – the Anti-Social Behaviour Order (ASBO) – and the ABCs are an attempt to provide something positive before reaching that stage. Police discuss the anti-social behaviour with the young people concerned, and let them know how it has been affecting other people. Often young people have just not thought about this. The ABC is the outcome of the joint work, and is signed by the young person. If he or she breaches the agreement, the council or the police can apply to the magistrates for an ASBO. Sometimes ABCs can be applied in a forceful way, but if facilitators are trained in restorative processes, ABCs can result in dialogue and genuine agreements.
Mrs H had moved into a new tenancy after some problems with her two young sons’ behaviour at the previous address. The local authority housing department saw the move as an opportunity for a fresh start. The house had previously been the home of an elderly man.

After a short time the housing department started to receive complaints from the neighbours immediately adjoining the property (Mrs T and Mrs B) about noise, footballs being kicked against windows and into gardens, fences being damaged, plants being destroyed and abusive language being used when they tried to complain directly. Another neighbour, Mrs M, complained that both boys climbed on the garages that she owned and threw blocks of wood into the garden.

A meeting took place at the local housing office when Mrs H and her two sons Peter (aged 14) and Darren (aged 12) were asked to explain their actions. At this meeting Mrs H accepted that there had been problems, of the sort she had wanted to escape by moving. She and the boys were offered the potential of mediation through the Greater Manchester Youth Justice Trust Family Group Meetings Project and she agreed.

The preparation focused around gathering accounts from the participants, identifying individual needs/interests and agreeing mutually acceptable ground rules for the meeting. There was some delay due to Mrs H’s ill health but all participants cooperated fully with the process and were supportive of a positive resolution. It took several visits, usually after school or at the end of work.

The following ground rules were agreed:

- Everyone will show respect for others.
- Keep control of laughing and giggling.
- Take the meeting seriously.
- Feel safe to talk about your feelings.
- Pay attention to others when they are speaking and try to avoid interrupting.
- Talk sensibly.
- Everyone will get a chance to have their say.
- This is a private meeting, respect the privacy.
- Above all think about how you want it to be in the future and the changes that need to be made.

Ground rules were agreed (e.g. respect, talk sensibly) and the meeting took place at 9.30 a.m. on a Saturday at a local community centre. It began with an introduction from the mediator and followed on with accounts of concerns and issues from the complainants, all of whom attended.

Then there was an opportunity for the boys and Mrs H to respond. They acknowledged that there had been a difficulty but that they had not fully appreciated the impact of the behaviour on the neighbours. The boys wanted to play football without all the ‘aggro’ they had attracted.
The final section considered resolution and an agreement about future contact/communication and behaviour. The group identified what they wanted to see in the future and this was translated into an Acceptable Behaviour Contract. This was agreed and signed, and copies were given to all.

We tried to balance it with a reference to a positive attitude to the boys playing football in an appropriate place. There was also some recognition that they all valued the restoration of communication between them which might help resolve any future disagreements/issues. They agreed that learning to compromise and communicate was important. They also reflected that they had been able to demonstrate that during the meeting.

**Acceptable Behaviour Contract**

*This contract is made on Saturday 22 November*

*Between: Peter H and Darren H and MM Borough Wide Housing.*

Peter and Darren agree the following in respect of future behaviour:

1. They will not kick footballs into the garden of neighbours on either side of their house. Instead they will play football on the spare land immediately in front of their house.
2. They will ask for permission to get their ball back should it end up in any residents’ gardens.
3. They will be respectful of neighbours’ and visitors’ cars while playing on the street.
4. They will not climb on any garage rooftops or fences in the area.
5. They will not throw any items over the fences between the properties.
6. They will be respectful of neighbours and when spoken to will not reply in an offensive or abusive way.

**In return:**

1. The neighbours recognise that the boys playing football is a positive use of time and are happy to encourage them to do it.
2. They will speak to the boys in a calm manner if they have any concerns.
3. All neighbours recognise that in the past communication has broken down and they will try to ensure that in the future they will communicate more positively if problems arise.

**In addition** Peter and Darren agree that they will not act in a way which causes harassment, alarm or distress.

**Breach:** If Peter and Darren do not keep to this agreement but continue to behave in an unacceptable way, then an application may be made for an Anti-Social Behaviour Order (ASBO).

**Peace-making Circles (formerly known as Sentencing Circles)**

These have been developed chiefly in Canada and the US. When first introduced there, Peace-making Circles were primarily used for sentencing and known as Sentencing Circles. Now used for many private and public issues, they are usually referred to as Peace-making Circles. They draw on Aboriginal practices from a time when everyone was essential to survival, and resolving differences had to be carried out in ways that built stronger connections. The use of ceremony and ritual, including a ‘talking piece’
(see below), reflect this influence. They also draw on contemporary models of consensus decision-making through dialogue.

The Circle process has four stages:

1. Application process.
2. Preparation: arrangements for the Circles.
4. Follow-up Circles.

The main facilitators of Peace-making Circles are called ‘keepers’. They are appointed by the Community Justice Committee after the first stage (the application process) is completed. They do most of their work in the second stage (preparation) of the Circle process in arranging for separate Circles for the victim and offender. When appropriate, the victim and offender Circles may merge in the third stage (sentencing stage) of the Circle process. In other cases, when it is not appropriate for the two Circles to merge, the victim and offender Circles function separately (a Healing Circle for the victim and a Sentencing/Healing Circle for the offender). The final stage, a follow-up Circle, is organised by the keepers. In most cases there are several follow-up Circles to ensure that the needs of the community, victim and offender are all met.

The ‘talking piece’ is the most important facilitator in the Circle – it is a feather, stick or stone, which is passed round, and Circle participants can only talk if they are holding it. In this way everyone shares responsibility for the process and the outcome. The process of talking round the Circle continues until consensus is reached.

When Circles are used for sentencing, a judge (who is a participant in the Circle) will use the consensus reached in a Circle to impose as the sentence. In some places where Circles have been functioning for several years and the Community Committee represents a balanced cross-section of the community, the judge is not involved, as the charges are dropped once a consensus decision has been successfully implemented. If a consensus cannot be reached after two Circles, the matter may be referred back to court or the judge may pass a sentence based on the information shared in the Circle.

Circles have been used for sentencing (including very serious crimes), pre-release hearings, victim Healing Circles and parole hearings, and for developing re-entry plans for offenders back into their communities after long prison sentences (Stuart 2006).

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**Case study: Peace-making Circle – assault on police officer**

Both the police and the prosecutor adamantly opposed sending Bart’s case to a Circle. Bart (aged 15) knew he was going to jail. He had been there before for much the same crimes: resisting arrest and assaulting a police officer – only this time he had severely beaten up the police officer. His crime was a mark of prestige among his peers – going to
jail would add to his growing reputation for being tough and demonstrate his capacities for leadership within the gang. Bart was not interested in facing either his mum Lois or his aunts in a Circle, and especially not interested in dealing with ‘a bunch of Sunday morning do-gooders’. Lois, a single mother, was losing her hold on her two boys and even her daughter. Bart was a hero to both his younger siblings. The family struggled to survive. Their poverty caused Lois to work at two jobs and she constantly had to say ‘No’ to most things her children wanted to buy or do.

With the help of one of Bart’s teachers and the executive director of the Community Justice Committee, Lois fought to get the local committee to take Bart’s case into the community Circle sentencing process. Bart had been a top student and athlete. He had a natural talent for art; he also had a natural talent for getting into trouble and for opposing any authority. His attitude prevented his acceptance for the Circle process. He said in the Application Circle that he didn’t care whether they accepted him or not…the only advantage he saw was a possibly lighter sentence, ‘but jail ain’t so bad…easy time…most of my people are in there.’

Many Circles start this way, especially in serious crimes, but find their way through the ‘bullshit’ and travel into places no one had expected. When the Justice Committee accepted the views of Lois and the teacher that Bart was on the edge of being lost for ever, they reluctantly recanted and supported the fight for Bart to be processed through a Circle. The police held their ground, as ‘Bart’s crime needs to be punished…kids must know that if they beat up a police officer, they go to jail.’ The Justice Committee and the police did at least agree to sit in a Circle to discuss their differences, which were many. Bart’s case was the catalyst for a long-overdue dialogue needed to bring the police and community into a better understanding and working relationship. They met twice without getting as far as discussing Bart’s case.

In the third Circle the police wanted the community to hear from Jack, the police officer whom Bart had severely injured when Jack tried to arrest Bart and his friend on the street for a suspected drug deal. Bart’s friend had kicked Jack, then Bart had hit Jack, sending him down to the ground where he was kicked and punched unconscious. In the circle Jack spoke about the incident and Bart with anger. Then Jack’s wife, who had said nothing for several rounds of the talking piece, spoke up:

When I married Jack, he desperately wanted to be a police officer because he wanted to help kids the same way a police officer had helped him when he was in trouble as a kid…now he says the next time he arrests a kid he will have his gun up the kid’s nose and if the kid sneezes, he will blow the kid’s head off…this is not the Jack I married…these changes are not as he thinks or as you might think because of the beating he took…these changes in him are the emotional beatings he gets from other officers who are on to him for letting a couple of kids beat him up…this time being the second time… I want and need the man he was back…and putting this kid in jail is not going to do that. Maybe a Circle won’t either, but Jack needs to talk to this kid and be himself, not the tough guy the police want him to be. He needs to be himself or we not only lose this kid but we lose a good man, a good police officer and a good father…what the hell are you all so worried about that will take place in that Circle…is it because a little honesty may come out?
When the round was over, the decision was clear – the case was going to a Circle. Jack agreed he needed to tell his story to Bart and to the community.

In his Preparation Circle, Bart heard from his teacher, his mother, his siblings and from several people in his community, including some young people not wrapped up in the gang culture and from an uncle he had never met. This uncle (his father’s older brother) lived on the other coast and had been dealing with his own drug addiction, which started in the same war that had killed his father. The combination of truth-telling and unqualified support Bart received pierced his tough veneer and brought out his truth.

Bart moved on to his Sentencing Circle in a very different place from that he was in four months earlier. In this Circle, Jack told his story, very emotionally and with great courage.

Bart accepted he had to serve time in jail. He apologised to Jack, to Jack’s wife and family, to the police, to his family and to his community. He had been spending time with two teachers doing extra work to save his school year, had attended drug counselling, had obeyed a strict curfew at home and had left his gang (a dangerous and courageous thing to do).

Near the end of the Circle Jack accepted Bart’s apology, congratulated him for accepting a jail sentence and for the work he was doing, and spoke about the courage Bart had shown in changing his life. Jack said that he too wanted to act with courage, by shaking Bart’s hand to mark a new beginning for them. Bart stood up to walk towards Jack, then Jack stood up and walked towards Bart. They met and shook hands…and were soon both hugging and crying.

Life does not have fairy-tale endings. Bart went to jail. He came back to his community, stayed in school, worked at a weekend job that the Circle had found for him and hung out with a different group of friends. However, two years later, the death of his mother in a car accident brought him back to drugs and more time in jail. The community and Jack stayed with him. Now, years later, married and with his own family, he is struggling but making it…

This shows the importance of the community trying again and again…to open up spaces for difficult conversations, sharing, telling the truth and building connections.

**Retail theft initiatives**

Retail theft initiatives are attempts to involve large stores in town centres in restorative approaches to shoplifting. As well as the theft involved, many security staff suffer from verbal and sometimes physical abuse from thieves when they apprehend them. Most store managers are too busy to take part in a mediation or conference with every shoplifter who is caught in their store, so another means is needed to make it possible for them to take part.

The Milton Keynes Retail Theft Initiative was started in 1994 to work with first-time offenders who steal from shops. They gained agreement from large stores for managers to take turns at a weekly session run by the police for these offenders, both young people and adults. The store managers agree to represent the ‘victim community’ of shops, and have individual interviews with each offender, covering such issues as:

- why the offender chose a particular shop
• the effect of the offence on the shop, the employees and other customers
• the possibility of a shop closing (if it is a small one)
• encouraging the offender to apologise
• consequences for the offender
• ending on a positive note, stressing that it is the behaviour that is being condemned, not the person him- or herself.

Depending on the nature of the case, offenders then attend other groups or individual sessions aimed to reduce the likelihood of re-offending. They are given a Caution (adult), Reprimand or Final Warning (young person) (Mears 2001).

Case studies: Retail theft initiative

Single parent under pressure

Maria was a 38-year-old single parent with a son of seven with learning difficulties and a daughter of 12 with a physical disability. Maria was arrested for theft of chocolates, perfume and other small items. She was referred to the retail theft initiative, and during her interview said she had stolen the items as Christmas presents. The chocolates were for her children’s teachers. Maria explained that her daughter was due to have an operation in the near future and was also at risk of being excluded from school due to behavioural problems. Although she was on prescribed anti-depressants, she felt unable to cope.

The store manager then talked to her about the difficulties for shops caused by shoplifting. Maria was given a Caution. She was also given details of a project helping women into work, and of a Befrienders Scheme. She was determined not to re-offend and soon began a computer course; her son enjoyed the company of the Befriending Scheme.

Teenager living with a friend

Lauren, aged 16, stole CDs worth £88 from a music shop, and was referred to the retail theft initiative. It turned out that she was living with a friend of 18 who was a single parent, and Lauren had stolen the CDs to sell to cover living costs. Lauren had missed much of her GCSE work due to non-attendance at school and a history of drug abuse following being sexually abused. She was given a Caution.4

As a result of the retail theft initiative, Lauren was reunited with her mother through a police officer acting as mediator. She was referred to a drugs worker and the Careers Service, and later the Youth Information Service and housing agencies. She remained at home and did not re-offend.

Another way of handling the shortage of time for store managers has been developed by Wessex Mediation and Reparation Service. The mediators in this service identified and

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4 This case study took place before the introduction of Reprimands and Final Warnings.
spoke to managers in most of the stores where young people shoplift. Each store nominated a manager who was sympathetic to young people, and who could explain the problems caused by shoplifting. When a young person has stolen from a shop, a mediation worker telephones the shop, speaks to the contact person and arranges to call at the shop with the young person. The manager speaks to the young person, who apologises, and they may come to an agreement about reparation and future contact with the shop. The whole interview takes about 20 minutes, the maximum time most managers can spare in a busy day.

**Victim–offender groups**

These are groups in which victims of crime and offenders meet, usually for a set number of sessions, where the victims have suffered similar crimes (but not the actual crimes) to those perpetrated by the offenders. This model is useful in bringing victims and offenders together where it is not possible for them to meet their actual counterpart because either the victim or the offender is unwilling – or, for victims, because their offender has not been caught. Some victims may prefer to start by meeting other offenders before meeting the actual perpetrator of the offence against them.

This model was pioneered in the UK in Rochester Youth Custody Centre 1985–7 (see Chapter 9, pp.215–6 for case study) and has been used in other prisons (see Bristol Prison case study in Chapter 9, pp.216–17) but can also be used in community settings. Avon Probation Service and Devon Probation Service have run victim–offender groups for victims and probation clients, and the example below is from one of these.

**Case study: Victim–burglar group in the community**

*This account is written by a former Victim Support coordinator who had also worked with offenders.*

Shortly after leaving my local Victim Support service, where I had been coordinator for five years, our house was burgled and my leaving present from Victim Support taken (a double tape recorder), as well as some money and a few other items. My daughter was six at the time and worried about the burglars returning during the night, so would not sleep in her own bed for some time.

I was asked if I would like to join a victim–burglar group and agreed. I had worked with offenders before working with Victim Support, and thought it would be an interesting experience. I expected the offenders to be inadequate teenagers and thought I would feel sorry for them.

When four tall well-dressed men in their late twenties and early thirties walked in, my first reaction was extreme anger. ‘What are decent-looking men like you doing, climbing into other people’s houses – you look as if you should know better.’ I was surprised at my own anger. However, as time went on, we came to realise that most of them did have a very sad story behind them.

A moment of truth came when an elderly victim of burglary and I were describing the effects on vulnerable people, young children like my daughter and elderly people like
herself. One of the burglars said stoutly, ‘Even though I’ve burgled houses, I would never
burgle a house with children or old people.’ Another group member responded, ‘But how
would you know till you’re in there? Then it’s too late.’ You could have heard a pin drop.

It was a roller coaster of emotions, but it was worth it. We all, victims and offenders,
got a lot out of it. I heard two years later that none of the four men had done another
burglary – one had shoplifted something small and the others had stayed out of trouble
completely. That was good to hear.

Working with more than one model

There has been considerable discussion as to ‘which model is best?’ It is probably better
to look at the situation in question and decide which model or models are most appro-
priate in that situation. Restorative principles form the guidelines, so the question
becomes, ‘Which process would be most beneficial for all here?’

A couple of examples may help. They are both taken from training situations, but are
real cases brought by participants.

Case study: Air gun injury (Moscow)

The crime was the use of an air pistol by a 17-year-old boy. He was given it by a friend
and thought it was old and didn’t work. He was ‘mucking about’ with it and pointed it at
a passing tram. To his surprise it went off, breaking a window which landed a fragment of
glass in the face of a girl – a classmate, as it happened – causing a slight facial injury.
Obviously the girl was very shocked. The police thought it was not an accident and
arrested him. The case was later referred to mediation.

The first role play was a victim–offender mediation between the two classmates. This
enabled the victim and offender to discuss what had happened, and help the boy realise
the distress he had caused. He was seen as a leader in his class and had previously seen
himself as a hero.

However, there was a sub-plot to this situation. The girl (one of the victim’s friends)
who had told adults of the offence had been ostracised by the rest of the class for ‘grass-
ing’, and this needed a wider discussion than a one-to-one mediation. So the second role
play was a victim–offender conference, involving the whole group in playing roles of the
conference coordinators, the victim’s parents, the offender’s parents and several class-
mates. This conference was able to resolve the whole-class issues.

Case study: Fights and assaults (Serbia)

A Serb boy and a Roma boy, both 16, had a fight in which the Roma boy, as the smaller
one, got beaten up. Two older cousins of the Roma boy then beat up the Serb boy. Mean-
while the Serb boy was expelled from school for his behaviour. Groups were asked to
make suggestions as to who should be involved in the mediation process and why.

The groups came up with several possibilities:
• Include everyone – the four young people, all their parents, three representatives of the school (including the principal if possible) and two facilitators – making a group of about 17. This would be run as a victim–offender or community conference.

• Include just the two original boys, as 16-year-olds could handle mediation independently of their parents (although the parents’ permission might be needed first). If mediation is successful, then work out a mechanism for communicating with everyone else, or hold a large meeting as above.

• Include the four boys (three Roma and one Serb) and two more to support the Serb boy. This could be run as a multi-party mediation or a small conference.

All these would be possible ways of approaching this case.

There is a case study in Chapter 8 (arson, p.179) where indirect mediation and direct mediation were used for different participants in the same case.

Summary
This chapter has looked at the models of restorative justice involving victims and offenders together, whether indirectly or directly. There are variations between these models, but all have in common some kind of communication between victims and offenders. And they can be used with each other, or modified, according to individual circumstances. The important thing is to be guided by the participants in the process and to use the model that brings the greatest benefit to all, especially the victims.

References


CHAPTER 5

Restorative Approaches for the Early Years of Life

Introduction
Many people are surprised that restorative approaches can be used with very young children. This area is a crucial one, because of the increasing anxiety concerning children and violence, but also because it is an area of growth and hope. Conflict is inevitable, especially with children who are just learning to socialise – it is the way it is handled that is important.

There is now a considerable body of work on restorative approaches with children of playgroup and nursery-school age. It is often easier for children to learn these approaches, as they do not have as much to ‘unlearn’ as adults do. Restorative work with young children could provide the foundations to help transform relationships and the way we do things.

Children, violence and peaceful living
There has been a lot of recent interest in teaching young children to settle conflicts without violence. There are many reasons why children may become violent; it may be because they have:

- experienced violence themselves
- experienced a breakdown in the relationship with their primary care-giver
- witnessed powerful role models who are violent
- been rewarded for aggression
- been affected by TV or computer game violence
- difficulties with hearing, language or social skills
- been unable to deal with their frustration
- not seen any other way of dealing with problems
- been abused
- been traumatised by loss.
No research has ever shown that punishment works as a strategy for dealing with violence by young children, so alternative ways are needed to help children to resolve conflicts without resorting to violence. As the causes outlined above are well known, they also point a direction towards achieving a peaceful way of life (Finch 1998, 2000).

The National Early Years Network produced a handbook for early years workers – ‘An Eye for an Eye Leaves Everyone Blind’: Teaching Young Children to Settle Conflicts without Violence (Finch 1998) – initiated by a conference in Dublin in 1997, which brought together people undertaking work on education for non-violence from across the world. The ideas and strategies from this conference were tested out by staff and children in three Save the Children centres during 1997. Staff found that looking at conflict resolution made them review every aspect of their work – the structure of the day, planning the environment, agreeing policies with parents, teaching negotiating skills, choosing appropriate games.

For instance, games like musical chairs give children the message that the one who can push hardest, or run fastest, is the one that wins the prize. Everyone else loses. The game often ends in conflict about who sat on the chair first. Children who play exclusively competitive games are more likely to be aggressive during free play. Children who are taught how to engage in cooperative activities learn negotiating skills that they can use throughout life (Finch 1998).

Planning the environment involves thinking about those things that contribute to conflict. Strategies to reduce conflict include minimising crowding, having clearly defined activity areas and pathways, access to toilets and comfortable tables for snacks and meals, and thinking about how children arrive and depart.

### Conflict resolution training for young children

An interesting piece of research was undertaken with 80 kindergarten children (aged five to six) in Minnesota in the US. They were divided into two groups. The children in the experimental group were given nine hours of conflict resolution training, integrated into a curriculum unit on friendship, taught daily for four consecutive weeks. Children in the control group were taught the same friendship unit for the same time, but without the conflict resolution training. Teachers were alternated so that all the children experienced all the teachers (to eliminate any bias from teacher style) (Stevahn et al. 2000).

The conflict resolution training included discussion of what is and what is not a conflict, and a six-step conflict resolution process:

1. Recognising that a conflict exists and being willing to resolve it constructively: ‘Stop. We have a conflict. Let’s sort it out.’

2. Stating what you want and giving your underlying reasons: ‘I want…because…’

4. Communicating your understanding of what the other person wants and why: ‘You want…because…’

5. Thinking of at least three options that maximise mutual gain: ‘Some ideas are…’

6. Reaching agreement by choosing an option and shaking hands on it: ‘We agree on…’

The process was presented as part of building and maintaining a friendship, and a visual poster reminded children of the steps (Johnson and Johnson 1995). At the end of the friendship unit, all the children were given one lesson on the steps in the process, and the poster was put on the classroom walls. They were asked to do a number of practical tasks. The children who had received the conflict resolution training were able to remember the steps, retain them over time, role play the process in resolving a conflict with a classmate, spontaneously use the process to resolve an actual conflict with a peer, and voluntarily help two peers in conflict. In the last task, 26 per cent of them used the process to mediate between their peers (even though they had not been taught a mediation process), whereas none of the untrained children did so. And in their own conflicts the untrained children continued to use forcing, withdrawal and invoking authority as their main strategies (Stevahn et al. 2000).

The results of this study show that young children can learn conflict resolution techniques and apply them to new situations. The fact that these techniques were integrated into the curriculum and also led to higher academic achievement meant they could more easily be adopted and justified – ‘add on’ programmes tend to get dropped. The study also demonstrated the value of teaching the techniques to all the children.

The authors of this article emphasise the importance of early intervention, in the light of research on violence among young children in the US, which showed that violent behaviour was often learnt in kindergarten, and was entrenched and almost impossible to break by the age of eight (Murray 1998).

**High/Scope problem-solving approach**

The High/Scope approach was developed in the US for pre-school children in 1962, initially funded by Michigan Department for Education. In 1965, it was incorporated into the compensatory educational programme Head Start for young children. The High/Scope approach includes several key elements:

- active learning
- plan–do–review

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1 High/Scope is the trademark name of the organisation promoting this approach, described in this chapter. See References at the end of the chapter for websites.
• choice of activities
• cooperative learning.

(Deloria and Weikart 1970; Hohmann and Weikart 1995)

A well-developed way of dealing with conflicts, carried out by teachers, mentors or play workers, forms part of this approach. This is described in detail in You Can’t Come to my Birthday Party! by Betsy Evans (2002), on which this section draws extensively. Instead of punishing children for hitting, kicking, pushing, throwing or the many other physical ways of getting their own way, a conflict mediation process is introduced.

Six steps in conflict mediation
(For adults to use with conflicts between children)

1. Approach calmly, stopping any hurtful actions.
2. Acknowledge children’s feelings.
3. Gather information.
4. Re-state the problem.
5. Ask for ideas for solutions and choose one together.
6. Be prepared to give follow-up support.

This is very similar to the basic mediation model (see p.74), but allowance is made for young children, in considering the following factors:

• **Egocentrism.** Young children view the world from the standpoint of their own feelings and needs, with little awareness of others’ viewpoints. Conflicts are an opportunity to hear feelings and ideas that are different from their own.

• **Concrete thinking.** Young children need to see the disputed object. The adult holds the disputed object while children talk and problem-solve, as otherwise the child holding the object has no incentive to discuss the problem.

• **Limited verbal skills.** Young children need lots of time to be able to express themselves verbally.

• **Physical expressiveness.** Young children may show their anger or frustration by hitting or grabbing. It is important to discourage these but not punish them – the aim is to help children learn to express their feelings appropriately and learn to problem-solve, so that they do not need to act out their distress.
- **Striving for independence.** Sometimes this leads to conflict and needs to be channelled in a constructive direction.

- **‘One-thing-at-a-time’ thinking.** Adults can help by re-stating the problem one bit at a time, until children feel their wants and needs have been fully understood.

- **Developing capacity for empathy.** When adults acknowledge children’s feelings, they help them become aware of others’ needs and feelings, and this helps to develop empathy.

Children’s ‘misbehaviour’ is regarded not as naughtiness but as social mistakes. So hitting and punching is seen as behaviour children use when they cannot explain what is wrong (Gartrell 1994, 1995).

So the conflict mediation model works like this:

1. **Approach calmly, stopping any hurtful actions.** The adult approaches with calm body language, stops any hurtful behaviour (‘You’re feeling angry, hitting people hurts, we can talk about the problem’), physically getting down to the children’s level, putting him- or herself between them if they are fighting, and taking control of any object that is in dispute.

2. **Acknowledge children’s feelings.** The adult makes a statement to acknowledge the children’s feelings: ‘Danny, you are feeling really angry.’ Once the children feel really understood, their strong feelings subside and they are ready for the next step. Adults can tell when this point has been reached from the body language of the children – they stop crying or shouting, calm down and relax.

3. **Gather information.** Once the children have calmed down, they are able to think. The adult then asks questions to find out what happened. ‘What’ questions are better than ‘Why’ questions. The adult listens actively to find out what the problem is and what the children need.

4. **Re-state the problem.** The adult then re-states the problem clearly, removing any hurtful language in the process.

5. **Ask for ideas for solutions and choose one together.** The adult then asks for ideas for solving the problem. This is better than imposing a solution, because it empowers children to learn that they can sort things out. Each suggested solution is checked with the other children involved. Sometimes other children gather round at this stage and contribute ideas for solutions. If everyone is completely stuck, the adult might ask, ‘Do you want to hear my idea?’ This stage is a creative process really enjoyed by young children. Sometimes the solutions reached do not seem ‘fair’ to adults (e.g. one child ends up with more marbles than another child), but if they are acceptable to
the children, adults do not interfere, as the process of empowerment is seen as more important than the particular solution reached.

6. **Be prepared to give follow-up support.** This step enables the transition from conflict back to play. One way of doing this is to help them realise they solved the problem, ‘You solved this problem!’ Adults then keep an eye on the children as they go back to their activities, to check that all is well – they can often tell this from children’s body language.

### Small-group problem-solving

Small groups can be used for resolving general problems, such as children running when it is not safe, or there is a problem of noise, or there is a spate of name-calling. Adults call the children together in small groups to discuss the problem, at a time when the problem is not actually happening. They use the following set of strategies:

1. Providing props or snacks to help maintain children’s attention.
2. Keeping language concrete and specific.
3. Supporting participation.
4. Expressing confidence in the children and the process.
5. Focusing on the problem, not the people.
6. Asking for and accepting many ideas.
7. Balancing attention given to different children.
8. Being sensitive to the interest level (i.e. stopping the discussion if interest wanes).
9. Summarising ideas.
10. Deciding a plan of action.

### I-statements

In small-group problem-solving and in adult–child conflicts, adults often make use of ‘I-statements’ to express their feelings, without accusing anyone; for example:

I feel worried about children running inside the room, because someone might get hurt.

I feel sad about the book being torn.

These processes are being developed in playgroups and nursery school classes across the UK, with children from ages two to five.
Case study: Playgroup

Here is one example from a playgroup leader, working with children aged two-and-a-half to four years.

Many conflicts are over objects: say, two children both want to play with the yellow bucket. We see it as a problem that we sort out together. Sometimes the children’s solution involves taking turns, and we have a large egg timer they can use to time each other. Or they say, ‘I’m going to count while you go round five times.’

One child, John, bit the arm of another child, Tim, because Tim had the bike. So I got the two of them together and acknowledged their feelings, both the child who got bitten and was crying, and the child who was cross. Then I showed them both the bite mark, and said gently, ‘Biting isn’t OK because it hurts.’ (I didn’t say ‘naughty’.) I then asked both children for ideas about what John could do instead if he was feeling cross because he wanted a turn on the bike. Tim said, ‘You can have a go later when I’ve finished.’ For young children ‘later’ is too vague, so I helped them to work out an agreement that we would count while Tim went round three times, and then it would be John’s turn. The children often do need support in establishing exactly how an agreement can work.

It takes a little while for children to learn the approach. With a new group we spend a lot of time on it at first. One little boy hit another one and cowered as I approached – he expected me to hit him, shout at him or drag him off. Now, 18 months later, he said recently, ‘I hit him, but I didn’t mean to, I was really cross.’ He was able to be honest because he knew he wouldn’t be punished, and that the adults were there to help.

If there’s a group problem, I use I-statements. At one point we had several children who were leaning back on their chairs, tipping them up. I said, ‘I’m really worried that the chairs will fall over and someone will get hurt.’ I asked the group to think of ways to solve the problem. One child suggested, ‘We could keep all the legs on the floor’, and another one said, ‘Don’t wobble the chairs.’ I fed these back to the group, and everyone agreed they were good ideas. This works much better than if adults impose a ‘rule’ – the children remind each other of their ideas to stay safe, rather than talking about what they’re not allowed to do.

Another time we didn’t have enough chairs, so we did some problem-solving. We counted the chairs and counted the people, and thought about what we could do. Two children then fetched two more chairs. Satisfaction at sorting it out replaced irritation at being the ones without a chair. A potential squabble is a learning opportunity.

The children also learn how to sort things out themselves. Several children wanted to go on the pink bike, the favourite toy of the moment. Another child went to fetch the egg timer to make it fair. Then they all took turns. No adult was involved at all – the children identified the problem and resolved it without any support from us.

I’ve used the approach with my own two boys, and one day I overheard one of them say in a resigned tone of voice, ‘If we go and ask Mummy, she’s only going to make us sort it out, so we might as well do it ourselves.’

Parents are often very surprised that such young children can sort things out in this way. We run courses for parents from time to time. They are convinced by the supportive and calm atmosphere in the playgroup. Violence is not the way to sort things out; hitting is a sign that we need to talk.
Case study: Nursery school

I visited Filton Avenue Nursery School, Bristol, to see the High/Scope method in action. Sue Evans introduced me to her staff and the classrooms.

All the equipment is at child height so that the children can access it independently. Children were busy playing with bricks, sand, paints, cars, toys, cookery things, and so on.

Laura came up to Sue to complain that Jonathan had grabbed the ‘hard hat’ she was wearing. Sue explained to Jonathan that grabbing things was not the way to do things and asked him to give it back to Laura, which he did. Then she said to both of them, ‘You both want to play with this hat. Maybe you could think about taking it in turns. Maybe when Laura has finished with it, she can pass it on to you, Jonathan.’ About three minutes later, Laura walked over to Jonathan and said, ‘Here you are, it’s your turn now.’

I joined Sue’s small group of seven children for their review session. Each child spoke in turn about the things they had played with that morning, part of the ‘plan, do, review’ method of High/Scope. Instead of the usual scramble to be first, a hoop was used, with a small white label stuck on it. The children sang, ‘Take the hoop and pass it on, pass it on, pass it on. Take the hoop and pass it on, pass it to your neighbour.’ At this point in the song, it was the turn of the child holding the hoop where the white label was.

Conflict arose when Sue asked the small group whether they wanted to have their group time first or their milk and fruit first. James said, ‘Group time’; Indira said, ‘I want milk and fruit now.’ Sue said, ‘What shall we do? James wants group time and Indira wants milk and fruit first. Who has any ideas?’ James said, ‘We could have a bit of group time, then milk and fruit, then more group time!’ Indira would not budge. ‘I want milk and fruit now.’ Sue then asked the rest of the group what they wanted. All except Indira wanted group time first. Sue turned to Indira. ‘It looks as if most people want group time. Could you go along with that, then on Monday we’ll remember that you wanted milk and fruit first.’ ‘Yes,’ said Indira, seeming reasonably happy with this. Then the group listened to a story about friendship, which was related to the curriculum area of social relationships, the topic for that week.

Later I talked to John, another member of staff. He explained how he worked with his small group on social relationships. He took his small group outside and provided four balls for the eight children. Some children picked up the balls and played with them on their own, leaving some children complaining that there were not enough balls. Then one pair started playing with one ball, rolling and throwing it to each other. This inspired others to see that there were ways of everyone playing with the balls. On another occasion he gave pairs of children a piece of play dough between them to see what they could do together. He explained that some children were still at the stage of ‘parallel play’ (playing on their own in the company of others) while others had moved on and were able to engage in ‘social play’ (interactive play).

Staff also related a story about a boy of four and a half, who was about to move on from his nursery school to infant school. A teacher was helping him to fill in a form for
As these examples show, although punishment is not used, children have to take responsibility for their own behaviour. Being engaged in sorting out difficulties between themselves can be challenging, but gives them satisfaction and skills for life – and achieves a safe and secure atmosphere for all in the playgroup or nursery school.

**Self-esteem**

It is clear that knowing how to resolve problems and conflicts for themselves is empowering for young children, and leads to greater self-esteem. This in turn helps with conflict resolution. A High/Scope study tracked the progress of a group of children in the US for over 20 years, and found that every dollar spent on pre-school education saved an estimated seven dollars by helping people stay out of prison and off state benefits in later life (Schweinhart and Weikart 1993).

**Young children at school: Equal Voice project**

Equal Voice is a project started by Pop-Up Theatre in 1991. It began as a set of drama-based techniques focusing on raising self-esteem in situations of conflict. Initially the founders of the project thought that, if it looked for ways of resolving conflicts, there would be fewer problems. Then they realised that all learning involves conflict – so they began to see conflict as positive and to be celebrated. Negative aspects only come into conflict when it is not dealt with in an open and expressive way. If feelings are unexpressed or unheard, the effects can linger for many years, and events that happened when a young child can even affect adult life (Equal Voice 2002).

Equal Voice has developed games and techniques to create a safe space, where every person (whatever their age) is equally and fully involved. ‘I-Time’ is a technique they have developed to look at conflicts between people and to develop emotional expression. Two children (they can be as young as five or six) sit in two chairs facing the rest of the class, and talk about their conflict using the framework below. The child who is the most upset starts.

- I noticed…
- I think…
- I feel…
- I am happier when…
- I want…

So it might go like this:
Case study: Equal Voice – Sasha and Carl

Sasha

I noticed that you pushed me.
I think you did it on purpose.
I feel very angry.
I am happier when you don’t push.
I want to be left alone.

Carl

I noticed that you were pulling faces.
I think you were talking about me.
I feel upset.
I am happier when you don’t do it.
I want to be your friend.

Then Sasha and Carl shake hands and say ‘Thank you for listening’ to each other. They are applauded for speaking and the audience is thanked for its attentiveness.

There are no judgements, advice or comments. Any changes will come about the next time a similar situation occurs. Children practise on role-played conflicts and can then move on to use the technique for real conflicts. The technique raises self-esteem by allowing everyone’s voice to be heard (Equal Voice 1996).

Case study: Mediating between a child and a teacher

This example comes from a mediation project working in schools, and the account is by the mediators.

Charlotte (Year 3) was brought out of a lesson as she had been causing a distraction to the rest of the class. We spoke to Charlotte without telling her off for her behaviour, encouraging her to chat about what she liked about school. The aim was to look at the positives.

We found out that at the beginning of the year everyone was asked to bring in a book to be read during story time. Mrs Smith had been reading stories all year but Charlotte’s hadn’t been read yet and she was looking forward to it.

That week Mrs Smith had started to read a story about Christmas, so Charlotte decided to make her frustration clear by humming to herself so that she couldn’t hear the story being read. This obviously caused a distraction, and as she had no intention of stopping, she had been sent out of class.

We managed to talk to Mrs Smith and she realised that the previous week she had said that there wouldn’t be time to start a new book so close to Christmas, and hadn’t thought about saying it again the next week.
We got them together and both agreed that Charlotte should have said something rather than just hum loudly, which wasn’t acceptable. And Mrs Smith agreed that she might have to explain more than once if she needed to leave someone out again. She was glad that there had been a reason for the behaviour as Charlotte was usually cooperative.

**Case study: Restorative approaches and special educational needs**

*The following example is from a restorative justice worker who, as a single parent with a child with special educational needs, saw the potential of a restorative approach to her son’s behaviour, and managed to persuade the school to give it a try.*

My son Jon was six when he was first excluded for aggressive behaviour at school. I always knew Jon was different and therefore needed extra support for inclusion in his peer group. He was diagnosed as having Asperger Syndrome (an autistic spectrum disorder) with impulsivity. He attended the village primary school, which was very good academically but not very inclusive.

Jon was excluded three times for behaviour, despite having a Statement of Special Educational Needs and a full-time learning support assistant (LSA). Unfortunately, his LSA had a very punitive attitude towards Jon and was not trained to work with children on the autistic spectrum. I had endless meetings with the school, which at that time saw punitive measures and exclusion as the only means to change children’s behaviour. Jon became more and more isolated, angry and frustrated, and his behaviour worsened.

It seemed like battle after battle, with other parents writing a petition against my child, and me having meeting after meeting to try to get my son’s needs met. This was not partnership working with the school. Exclusion did nothing to deter Jon’s aggressive behaviour and did not involve him in resolving the problem he had caused. Jon enjoyed the time off school (I had to take him to work with me) but he was getting more and more isolated from his peers. I wanted him to have the opportunity to try to understand how his tantrums affected others, so that he was responsible for trying to repair the harm his behaviour had caused, and could try to make different choices in future.

A new acting head came to the school. Initially her response was to exclude Jon, as before – however, seeing that this made no difference to his behaviour, she responded to my suggestions of using restorative approaches. I was able to work in partnership with the school. Jon’s Year 2 teacher was very skilled; she read the needs behind my son’s behaviour and responded to these with sensitivity and clear boundaries. When Jon upset another child, she got them to meet so that Jon heard how his behaviour affected others. He was able to go some way to repairing the harm. He is still friendly with these children today and their parents have changed from being hostile to being understanding of Jon’s needs.

Jon’s teacher saw Jon’s strengths and supported these, taking risks doing this. She saw his musical ability and let him play the piano at school in front of other children. She recognised his strong tuneful singing voice and gave him the opening solo at the Christmas play. From performing this in front of 200 people he gained positive attention from
all the children and also from parents, who saw him in a different light. Jon had a special job of organising the music for assembly at school.

Jon’s teacher acted on my suggestion that he could perhaps mentor another child by helping them to read (Jon was way ahead with his reading) and that another child could mentor Jon by helping him with his drawing skills, as these needed developing. The mentoring worked well and as a secondary bonus Jon was included at play time with other children. He has since been invited to birthday parties of these children.

I cannot put into words my gratitude to Jon’s teacher and the acting head teacher for taking a risk in managing the conflicts created by Jon in a restorative way. As a small thank you, Jon and I painted a jungle scene and an underwater scene for the playground. Jon signed his painting so that he will be remembered at the school. He feels that he matters at school, he has friends and he has learnt not to hurt people. I don’t believe exclusion would have ever created this for him or helped other children to understand him better.

Restorative approaches at home

The following story shows how restorative approaches can be used in family life and affect outcomes in conflict situations. It is contributed by a restorative justice worker in a prison, who was trying to put the principles into practice at home too (often the hardest thing of all).

Case study: The toilet rolls

My twins (aged five) came home from school one Friday acting the same as they usually did. During the course of the evening they related an incident at school and how they had handled it. They sounded proud of themselves. When they went to the toilet earlier in the day, they accidentally knocked a toilet roll into the toilet – it had been balancing on the back of the toilet. They did not know what to do and tried to flush it away. However, it wouldn’t flush away and they had to tell their teacher, Mrs H. Emma also told the teacher that she had put a spare toilet roll into the toilet cubicle in case someone else needed it, and Mrs H had praised her for this sensible action. A couple of Emma’s friends, Philip and Rosie, then tried to help fish the toilet roll out of the toilet.

I didn’t think anything more of the story, doing the usual ‘motherly grunting’ while engaged in other tasks. However, about half an hour after bedtime, Emma came downstairs. She said she couldn’t sleep because she had a bad feeling, as she had told a lie and needed to talk to me about it. The real events were somewhat different from what I had been told earlier, and I can only suppose that the original version was what Emma would have liked to have happened. In reality, she had knocked the toilet roll in by accident, but when she tried to flush it away and it looked as if she had blocked the toilet, she told her teacher that she had found it like that, and that she thought Philip had done it. This is why Philip was sent to get it out. Emma was very worried that the toilet was still blocked and that she had lied.

I praised her for telling me the truth and said I thought it must have been very difficult for her to tell me. She said it had been easy to tell me, because she knew that I would
understand and try to help her sort it out. However, she was very reluctant to try out my solution, which was to tell her teacher the truth on Monday morning. She wanted to see if the loo was blocked — and if it wasn’t, to just forget about it and never do it again. However, she didn’t think this would be OK if the loo was still blocked. I explained that this wouldn’t get rid of the horrible feeling, because that was her conscience telling her she had lied, and the only way to deal with that was to tell the truth. She felt very scared about this. The terms she used were: ‘ashamed’, ‘don’t want people to know I’ve lied’, ‘scared the teacher might be angry’.

We talked about it a number of times over the weekend, and only on Monday morning, after I refused to do all the talking for her, did she seem reconciled to what she was going to have to do. We went together to see Mrs H, who responded really well — concerned that Emma hadn’t felt able to tell her the truth at the time, but glad that she had now. She also felt that Emma had to tell Philip the truth. So we went out into the playground to find Philip and his mother, who both listened to what Emma had to say. Big hugs followed and a beaming Emma said that the nasty feeling had gone.

This example shows how a restorative approach, involving honesty and apology to those wronged, has more to offer both sides than keeping quiet or being punished.

The next example is a more family-based one, of a young child spontaneously making up for a destructive act:

**Case study: Broken book**

The twins were messing about in the living room and picked up a new book of photographs belonging to my husband Andy. Sukey threw it across the room and the spine broke. Andy was very angry and upset. Sukey burst into tears and rushed out to find me. I cuddled her and calmed her down. Then she said, ‘Can you help me make Daddy a cup of coffee, ’cos I can’t do it on my own.’ So together we made the cup of coffee, and carried it carefully into the living room for Andy. It helped him calm down too.

Many parents use restorative approaches in their everyday lives with their young children, without labelling it as such. Discussion and sharing of these approaches can help parents to recognise the many opportunities and openings that exist to give their children these ‘tools for life’. Several organisations now run parenting classes that emphasise these approaches, for example Youth Offending Teams, Parentline Plus (see References overleaf) and others.

**Summary**

This chapter has looked at some of the research on children and violence, then at conflict resolution training for young children, and how this can give them tools for life and also help their self-esteem. This has relevance to young children at home and at school.

The idea that very young children can learn restorative approaches to resolve conflicts is one that has great power — imagine a world in which all children have the
opportunity to learn them as one of their first skills! This could significantly increase the world’s resources to manage conflict and harm of all kinds.

References


High/Scope: (US) http://www.highscope.org; (UK) http://www.high-scope.org.uk


Parentline Plus: http://www.parentlineplus.org.uk


CHAPTER 6

Restorative Approaches in Schools

Introduction
The early roots of restorative work in schools in the 1980s have been mentioned in Chapter 2. The emphasis was on teaching conflict resolution in schools, to help students with their relationships with others, and to foster a peaceful and constructive atmosphere in schools. Several schools developed this into training children and young people to be peer mediators. Most of the techniques and processes described in this chapter were developed with this in mind. The words ‘restorative justice’ were not used.

When restorative work with young offenders began to catch on, the phrase ‘restorative justice’ began to be used for this. The work of the Thames Valley Police has already been mentioned in this respect, starting from the 1990s (see Chapter 2). Although Thames Valley Police worked initially with young offenders, they soon saw the potential for their preventative work in schools, as young people who were excluded from school through misbehaviour often had little to do and were soon in trouble with the law. The Thames Valley Police introduced the restorative conferencing techniques they had learnt from Australian facilitators, and referred to it as ‘restorative justice in schools’.

These techniques have been broadened to include much more than sorting out difficulties and conflicts. Drawing on those who had been working in the field in schools for many years (Sue Bowers, Belinda Hopkins and others), ‘restorative approaches in schools’ has come to encompass an approach which seeks to prevent conflict, bullying and destructive behaviour, by building good relationships throughout the school. The school is seen as a community in which everyone has a responsibility to help with this task.

A restorative approach in schools can be used not only in cases of clear-cut wrongdoing, but also in cases of conflict between students, between staff and students, between staff and parents and even between staff themselves. Apart from the benefits for the participants, restorative approaches can help to strengthen the school community and reduce the need to exclude children (Hopkins 2006; Thorsborne and Vinegrad 2002, 2004; Warren 2004).
So the key principles of using a restorative approach in a school context include:

- providing all those affected by a conflict or a problem the opportunity to air their experiences, their feelings and their needs, and to feel heard
- involving everyone affected in finding a mutually acceptable way forward
- ensuring that everyone involved becomes accountable for their possible contribution to the presenting incident.

(Thorsborne and Vinegrad 2002, 2004)

From these different backgrounds, activities have developed which are fairly similar but have different names. Schools with connections with community mediation services and peace education projects tend to talk about mediation and conflict resolution; schools with strong police links tend to talk about restorative conferencing and restorative justice in schools, even if they are describing a meeting with only a facilitator, a victim and an offender. Many practitioners use the words ‘restorative approaches’ rather than ‘restorative justice’ to indicate the wider remit including all school relationships. The important thing is that they all share the same restorative values (see Chapter 1).

**Whole-school approach**

Although many schools adopt one or two of the processes mentioned above on their own, research has shown that they are far more effective if they are part of a ‘whole-school approach’. It is very undermining if a young person attends a conference in which he or she agrees to put things right, and, despite this, is then excluded or punished as well, according to ‘school rules’. It is clearly vital for a school to think out its whole policy so that all the processes fit in with each other. This is expressed rather well in Belinda Hopkins’ jigsaw diagram (Hopkins 2004) (see Figure 6.1).

The ‘glue’ that holds the pieces of the jigsaw together is a common commitment to restorative values and principles. This means that staff as well as students are expected to demonstrate restorative values and model these approaches. It is sometimes hard for teachers and school management teams to relinquish traditional adherence to control and punishment techniques which have been used for generations.

**A hierarchy of options**

Brenda Morrison (2005a, 2005b) describes three levels of activity needed in a school:

1. **Whole-school methods**: Social and emotional education, and conflict resolution skills, so that members of the school community can resolve differences in a respectful, caring and inclusive way.

2. **Methods for sorting out low-level conflict/problems**: These will apply to several people, but fewer than those involved in whole-school methods.
3. *Methods for dealing with serious conflicts/problems/incidents.* These will only involve a small minority of school members, but may enable them to stay part of the school.

The processes are therefore listed above and described below in this order. Many of these have already been described in Chapter 4 but are shown working in the different context of a school environment.

**Restorative processes**

1. Whole school

*Conflict resolution skills*

Many schools, especially primary schools, have introduced the teaching of conflict resolution skills – either in their own right or as a precursor to teaching peer mediation. Often a community mediation service or peace education project helps to initiate these lessons, at the same time training class teachers to be able to take over from them. The
lessons are designed to be fun and interesting, with games and interactive exercises from which children reflect on their experiences and learn ways of resolving conflict.

One of the first British collections of activities was *Ways and Means* (Bowers and Wells 1986), revised as *Ways and Means Today* (Rawlings 1996), published by Kingston Friends Workshop Group. Part of their philosophy was to acknowledge that conflict occurs when communication has broken down; for example, when people do not listen to each other, when people feel bad about themselves, when people do not cooperate with each other, when problems seem insoluble. Therefore conflict resolution needs to rest on a base of values:

- affirmation
- communication
- cooperation
- problem-solving.

All these are needed to be able to resolve conflict. So the exercises and games help children to affirm each other, to acquire communication skills (especially listening), to experience cooperation through games and tasks, to learn problem-solving skills – and to use all these in resolving conflicts between themselves.

Other Quaker projects followed suit, such as the West Midlands Quaker Peace Education Project (1984), the Ulster Quaker Peace Education Project (1988) and its successor project Education for Mutual Understanding (EMU), and, more recently, the Conflict Response in Schools Programme (CRISP) in Darlington (1999) and Conflict Resolution Education in Sheffield Schools Training (CRESST) in 2004. All these projects except the EMU project still exist. Many community mediation services have also developed schools projects along these lines, teaching conflict resolution skills in schools, often leading on to peer mediation training.

Many of the skills outlined above are now part of the national curriculum, and can therefore be integrated into subjects such as English, social studies, PSHE (personal, social and health education), religious education and citizenship. Although timetabling this is easier in a primary school, many secondary schools are now including them too.

Examples of activities are:

- Active listening, for instance pairs talk about ‘something good that happened this week’.
- Listening for feelings behind what is being said.
- Affirmation posters where children write good things about each other.
- ‘Broken Squares’ activity, where participants learn that parts of cardboard squares need to be given to others if the group is to complete all its squares.

1 Now Kingston Friends Mediation.
2 Sadly, the EMU project closed when its director Jerry Tyrrell died unexpectedly in 2001.
• Games like ‘grandmother’s keys’ which are active and require group cooperation.
• A story circle, in which each child adds a sentence to a story, going round the circle – involving listening and creativity.
• Role plays where children can put themselves in others’ shoes and learn empathy and how to explore different points of view.

(Rawlings 1996)

Case study: Conflict resolution skills (secondary)

Casey was often subjected to hurtful comments and pranks by other students in class. One of the ways she coped was by creating distractions and disruptions in the classroom. It became apparent that Casey was struggling with her work.

She was encouraged to join in a series of eight lunchtime sessions aimed at building self-esteem and dealing with the feelings that arise in conflict situations.

Casey commented on the new ways she dealt with bullying behaviour from her peers; for example, she talked to her close friends about her feelings and explained to those behaving unfairly how she liked to be treated, rather than withdrawing and bottling up her anger. She said this helped her to move on from any incidents even if they still occurred. ‘I don’t want to be angry, then go home and beat up my little brother! Talking to others has really helped me.’

As part of a team of ten classmates, Casey went on to train as a workshop leader, and helped to deliver conflict resolution skills sessions for younger students.

Circle Time

Circles are a time-honoured way of coming together to discuss, to talk, to make decisions. In a circle, everyone can see everyone else, and everyone is equal. But in traditional classrooms, desks, tables, computers and other equipment often make this difficult. A tradition of teacher authority can also inhibit the idea of equality with students.

Many of the restorative processes are best taught in circles, and Circle Time has been introduced in many schools to provide an opportunity for children to share and build up trust. It is easier to do this in primary schools, with their more flexible timetable, but some secondary schools also use it. Circle Time can include games, rounds and discussions.

Circle Time needs some simple ground rules to be successful:

• Everything said in the room is confidential unless there is an agreement to take it outside the room (the exception to this is the disclosure of abuse or danger).
• Everyone has the right to be heard and a duty to listen.
• No ‘put-downs’ are permitted.
• Everyone has the right to pass.
Circle Time participants can also contribute to the rules, and everyone has a responsibility to see that they are kept. Often a ‘talking stick’ or other object, such as an attractive shell or a smooth stone, is passed round, so that people may only speak when they are holding the object (Hopkins 2004; Rawlings 1996).

**Case study: Circle Time (primary) – thefts resolved**

*This case study shows how Circle Time can be used to deal with offences, if children are used to the format and have been using it for other things first.*

There had been ten or eleven thefts in a class of eight- to nine-year-olds, and the police had become involved. They got the children to sit in a big circle and asked them to talk about how they had been affected. The police knew that the children who had taken the things must be in the circle. They also asked what everyone could do to make things better, and suggestions were made: that they should look after their things better, that they should tell their teacher when things were taken. Then a boy suggested putting a box out for the things to be returned, without identifying who had done it. By the next morning all the things were in the box. The restorative circle had clearly touched the child or children who had taken the things, and they decided to return them.

**Mentoring**

Mentoring is a one-to-one, non-judgemental relationship in which an individual gives time to support and encourage another. There are many schemes in schools in the UK which involve adult volunteers as mentors to help children with particular needs, for instance to help with reading; or to help with children who have difficulties at home. The Mentoring + Befriending Foundation is a national organisation which provides coordination and help to those trying to implement mentoring schemes.

**Case study: Comments from adult mentors**

Some comments from one mentoring scheme with 35 adult volunteers:

- We monitor mentoring and pupil progression by using questionnaires and reading age statistics. We have found consistently that there are improvements in self confidence, behaviour and performance.

- This pupil no longer presents challenging behaviour in the classroom and hopes to maintain contact with his mentor.

- My mentor helped me with not getting into fights and behaving in school. We sometimes go walking together with our dogs at lunchtime.

(Mentoring + Befriending Foundation 2005)
Peer mentoring

Children and young people can also act as mentors to other children. In 2001 the National Mentoring Network (now the Mentoring + Befriending Foundation) developed a peer mentoring guidance and support pack for secondary schools. This was piloted in six schools and has now been extended to more than 400 schools nationally. The skills taught to trainee mentors include:

- the role of a mentor
- differences, values and attitudes
- communication skills
- helping skills
- ground rules
- starting the relationship.

Case study: Peer mentoring

In one school, peer mentoring is used throughout the school. Year 7 and 8 students are encouraged to become ‘bus buddies’ or ‘cyber buddies’ to other lower-school students. In Years 11 to 13, students can become one-to-one mentors, and also provide classroom support for lower classes. Peer mentors also manage after-school football classes for lower-school students. The programme has its own Mentoring Newsletter. The peer mentors group visited Poland and the Auschwitz Museum, to reflect on racism, prejudice and asylum seekers, with a view to helping them with this aspect of their role as peer mentors.

(Mentoring + Befriending Foundation 2005)

School councils

School councils are democratically elected groups of students who represent their peers and enable students to become partners in their own education, making a positive contribution to the school environment and ethos. They give students a voice, improve communication in the school, reduce bullying and vandalism, reduce school exclusions, improve teacher–student relationships, provide education in citizenship, help schools develop into caring communities and improve academic performance. Students feel valued as their views are acknowledged and acted on. School councils discuss issues which affect the whole school, such as meals, school improvements and general behaviour. The coordinating body School Councils UK has 2,000 member schools (School Councils UK 2006).
2. Minor conflicts

Mediation

Mediation is a process in which an impartial mediator (or two co-mediators) help(s) two (or more) people to resolve a conflict. The parties decide the terms of the agreement, not the mediator(s). See Chapter 4 for more details.

There are many ways in which a school can use mediation:

- *Teachers mediating between students.* This can be difficult to achieve, as most teachers are more used to ‘arbitrating’ (listening to both sides and then making a decision about what should happen). Mediation (helping both sides to come to their own decision) can be more time-consuming, and schools are usually very busy places. But it can provide more lasting solutions and help to mend relationships.

- *Heads of year mediating between a teacher and a student.* This can be hard to achieve as it can be quite difficult for teachers to have their judgement questioned in this way. But it can also lead to rewarding results.

- *Co-mediation teams of a teacher and a student mediating between a teacher and a student.* This is a more balanced arrangement for mediation, but requires a school that is committed to mediation and has trained staff and students.

- *Peer mediation.* Students mediate each other’s conflicts. They can often deal with conflicts that students would not feel able to bring to teachers.

Mediation can be used for minor or major conflicts and incidents. In this section we will look at peer mediation, which is used in many schools to resolve less serious conflicts between students.

Peer mediation

Peer mediation is a process in which children and young people act as mediators to help other children and young people sort out their conflicts, if asked to do so. Children as young as eight have proved they can be good mediators. Such schemes usually operate during breaks, when there are no formal structured activities happening. Often peer mediators work in pairs, with bibs or baseball caps indicating that they are on duty. The bibs or caps are labelled according to the scheme’s chosen name for mediators; for example Mighty Mediators, Conflict Busters, Playground Peace-makers. They may resolve conflicts in the playground standing up or may have a designated quiet area in the school that they can use. It is vital that there is good support and supervision of peer mediators from teachers who have been part of the training.

The training is often done by outside facilitators initially, who train the teachers to continue on their own. Often the training starts with lessons in conflict resolution, so that the children or young people get an idea of what it is all about. Then children volunteer to do further training if they want to be mediators. It is important to include some children or young people who may have reputations as ‘negative leaders’, as they may
lend ‘street cred’ to the scheme; they are often good mediators and also find the role gives them the status they need, in a more positive way.

The mediation process is similar to the one used for adults (see Chapter 4), but may be simpler for young children, who will also take less time to mediate – a whole mediation may only take ten minutes. However, mediations involving teenagers may take longer than adult ones.

Here is a summary of the mediation process from a manual for secondary schools and colleges:

**Stage 1: Rules**
- Make it feel safe.
- Agree ground rules for the session.

**Stage 2: Problems**
- What’s the problem?
- Give both sides the chance to tell their story.
- Re-tell the problem for each side.
- Encourage each side to hear the other person’s needs and feelings.

**Stage 3: Solutions**
- Encourage them to find ways of solving the problem, or new ways of looking at the situation.
- Make an agreement.

(Mediation UK 1998)

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**Case study: Peer mediation (secondary, girls) – falling out with a friend**

*This case study is by one of two girls in Year 8 in dispute.*

When I fell out with my friend Emily, I was miserable. It was a silly row anyway but we stopped talking to each other, which was really awful because we sat next to each other in all our lessons. We used to walk to school together in the mornings and now we went with other people. I often saw Emily but we ignored each other.

One day Mr H suggested we try mediation when he saw how upset I was, and Emily said she would give it a go. The mediators were very nice. It was easy to talk to them because they were only in Year 9 and they seemed to understand what it was all about. I was surprised when Emily said how she was feeling. I hadn’t really thought about how things were for her. It made me feel guilty for not being nicer to her.

We’ve sorted things out now and we’re friends again, thanks to the mediators.
Case study: Peer mediation (secondary, boys) – fights and cussing

George and Jamie were both aged 12, in Year 7, and got into a fight. It started when Jamie joined in with older boys ‘cussing’ George and was pushed into punching him. George punched back. A teacher suggested mediation. The peer mediators helped the boys calm down and listen to each other.

George felt angry at being attacked for no reason, and embarrassed; also, worried it might happen again. Jamie felt scared of his parents’ reactions if they found out, angry at being blamed for the whole episode, upset as he did not mean to hurt anyone, and worried in case he got a reputation as a troublemaker. They both apologised for punching each other and agreed to stay out of each other’s way for a while; they also agreed not to spread rumours about what had been said in the mediation.

Case studies: Peer mediators at work (secondary)

These are contributions by Year 10 peer mediators from a secondary school with an established peer mediation scheme:

- Last Tuesday I was on duty with Mark and a girl came in and said she was being bullied. I asked her name, what year she was in and who the bully was – a boy in her year. Mark asked her what had been happening and how long for. Then we went to find the boy – he took a bit of persuading to come but did eventually.

  Back in the mediation room, Mark explained the rules and what would happen. We asked the girl what had been going on, and she said she was being picked on by boys and girls in her year – they were taking the mick out of her teeth. The boy was the main person doing it because they used to be friends. Then I asked the boy for his side of the story – he said he wasn’t taking the mick, just going with the flow. Then we asked them what they could do to solve the problem. The girl said she would stay away from them, and the boy said he would tell other people to shut up if they were horrible to her. We asked them to come back in two weeks’ time – they did and it was all sorted and they’re friends now.

- In an emergency we were called on to do an unexpected peer mediation. It was between five girls who had fallen out. Lots of misunderstandings had occurred. We went through the basic rules about safety and confidentiality, and asked the girls to talk one by one about what had happened and how they felt. We decided to have a repeat mediation to involve two more girls. They all came to an agreement to leave each other alone. We met up two weeks later and all had gone smoothly, the girls had stuck to the plan.

- Two girls came in complaining of friends passing on rumours behind their backs, so we sorted out the friends’ stories by asking for their versions and resolved the problem.

And some of their mediation participants:
The mediators were very helpful and professional. The mediation went well and now I’m friends with the girl I went to mediation with.

The mediators were very helpful and really nice. They let us say what we wanted and gave us fair and equal time.

Case study: Benefits for peer mediators (secondary)

Peer mediators also gain from their training and their mediation work. Below are comments from peer mediators from another school, where Year 8 students were trained as mediators:

Ehsan: The training has helped me to make better friends, I sort out problems with my friends and family and I have been teaching these skills to my brother and sister.

Jordan: Doing peer mediation has calmed me down a lot in lessons. In Year 7, I used to get sent to isolation a lot and be on report. Now I talk differently – I used to talk cheeky and be aggressive towards teachers but not any more. My friends keep saying, “Why aren’t you messing around any more?” I tell them I’m just a normal person now, it’s changed me inside.

Alia: I have become more confident and I feel calm that I will be able to handle students’ problems. I used to be shy and lacked confidence but our project workers encourage us to handle things that we never thought about doing.

Jordain: Being a peer mediator is something to look forward to. You have to think before you get yourself into trouble, you want to be good to be a peer mediator, and it has helped me make lots more new friends.

Case study: Peer mediation (primary)

One primary school introduced peer mediation, and trained 16 peer mediators – two boys and two girls in each year group. The mediators are on duty in green jackets every break and lunchtime. If anyone gets into an argument they can’t resolve, they can approach the mediators who find a quiet place to help them resolve it. The head teacher was very sceptical at first: ‘When it was first suggested to me, I thought the idea of children helping each other solve conflicts was a bridge too far. But they are very successful at it.’ Now the peer mediators handle more than 50 mediations a year.
PeerLink

PeerLink was developed from the Young Mediators’ Network (YMN), which was set up to link volunteers aged 13–21 years who were working in peer mediation and peer support projects around the country.

From April 2006, Leap Confronting Conflict (YMN’s parent organisation) gained funding to expand the YMN into a new network called PeerLink, designed to increase youth participation and leadership. PeerLink aims to develop a national movement, resource and point of reference for youth mediation and conflict resolution. Steered and delivered by young people, it hopes to engage more diverse groups of young people in contributing positively to their communities.

PeerLink works nationally but is focusing initially on Yorkshire and the Humber, the southwest and London. The first stage has been to recruit young people to become peer trainers and to sit on the steering groups for each region (Davis 2006; Young Mediators’ Network 2005, 2006).

Circle of Friends

A Circle of Friends is a small group of friends gathered together to support a child who needs help at any particular time, especially if their behaviour seems to alienate other children. The formation of such a group provides friends for a child when they feel no one likes them, and a trusted group which can alert the child to any behaviour that seems to be leading them into trouble.

Case study: Circle of Friends (primary) – the ‘Cough Group’

Raj had moved to a new school when he was nine, and had experienced a few difficulties settling in, but soon made friends. However, in Year 6, his last at primary school, he experienced renewed difficulties. Incidents escalated, such as name calling, pushing and shoving, and other children winding him up. One day Raj just blew up. He acquired a label of ‘being difficult’ and became more and more reluctant to go to school.

Raj’s mother Jean went to the school to ask for help. A meeting was arranged including the special educational needs coordinator (SENCO), a representative of Supportive Parents for Special Children (SPSC),³ the class teacher Mr P, Jean and Raj. The SENCO and the representative of SPSC recommended using a Circle of Friends, as this had been helpful to other children in similar situations. Mr P had not heard of it but said he was willing to give it a try.

Mr P spoke to the rest of the class (without Raj) and said that Raj needed a friendship circle. Lots of children put their hands up and Mr P chose a few. Then Mr P organised a meeting between himself, Raj and the group of friends. He asked all the friends to say:

³ A local parent-led organisation providing a confidential and independent support service to parents of children with special educational needs in that area.
why they wanted to be Raj’s support person – nice things about him
what Raj could do to be easier to be with, and
to come up with a signal for Raj to ask for help.

As the group was called a Circle of Friends (COF), they decided to use a pun and call themselves the Cough Group. Their signal would be to cough, so they coughed if they thought Raj needed reminding of something, and summoned each other to their weekly meeting by coughing at each other. One thing that Raj did that seemed to annoy other children was walking in a deliberately silly way, so they coined the term MMSW for Minimise the Ministry of Silly Walks.

Over the next half term, things improved. Raj felt a bit surer of his friends because he had people on his side and the group of friends eased his transfer to secondary school that autumn.

3. Serious conflicts

In this section we look at processes which can help with more serious conflicts and incidents of harm, where parents and professionals may need to be involved, and trained adults from the school or another agency undertake the facilitation.

Mediation

Mediation can be used to sort out serious conflicts as well as minor ones. It can also be used for incidents in schools where it is clear that one party has harmed another; this is generally called victim–offender mediation, although this term is not usually used in schools. It can be an opportunity for the person responsible to apologise and to explain why they acted as they did, and an opportunity for the person harmed to explain how they have been affected. There is often a conflict or misunderstanding lying behind the event, and this can be cleared up too – for instance rumours circulating, leading to one student hitting another.

Case study: Mediation (primary) – assault leading to broken jaw

Two eight-year-old girls, Crystal and Stacey, had been taunting each other in the playground for several weeks. This escalated to violent and aggressive behaviour, culminating in an incident in which Stacey punched Crystal in her face, whereupon Crystal fell down and broke her jaw. The welfare officer at the school referred the case to the local mediation service.

The mediators visited Crystal and her mother, both very upset. Crystal was worried that Stacey might hit her again. Then the mediators visited Stacey and her grandmother (Stacey’s mother had recently been killed in a car crash). It turned out that Crystal (who had severe ADHD) had taunted Stacey about her mother’s death, and Stacey had lashed
out in rage, not meaning it to go so far. Stacey had never been in trouble before her mother’s death, but was finding it very difficult to cope.

The headmistress was also concerned as school staff were now supervising the two girls separately during break times, so that they did not meet, and this took up a great deal of teacher time. They all met: both girls, Crystal’s mother, Stacey’s grandmother, the pastoral care teacher from the school and the mediators. Everyone aired their views. The outcomes of the meeting were:

- Both Crystal and Stacey apologised to each other.
- Both girls made promises of good behaviour.
- The two girls wanted to be allowed out in the playground together immediately, but the school asked them first to show that they could behave well to each other in class for three weeks.
- The pastoral care teacher offered to see the girls any time they had any problems.
- It was decided that counselling for Stacey would be useful.

A review meeting was set for two months’ time, at which point all was progressing well.

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**Case study: Conflict between parents affects children (secondary)**

_Sometimes conflicts between adults can impact on children in school._

A secondary school was having difficulties with a group of girls aged 12–14 years, and referred the case for mediation. A dispute that had involved verbal and physical assaults between a group of parents had transferred to the children, and the conflict was continuing in and out of school. There had been verbal abuse and threats of violence between the young people, and the school was very concerned that the problem seemed to be escalating and getting out of control.

The relationship between the parents was hostile and attempts to resolve the dispute between the children had been unsuccessful. Sally (aged 13) had been physically threatened and was anxious about going to school because of the threats. Sally felt that the other girls involved (three cousins) were ganging up on her, so she was worried about attending a mediation session. The mediators spoke to all the girls and parents about the conflict between the families. All the girls involved agreed to a meeting to resolve the situation. The parents were all concerned about the effects on their children, including the effect on their school work, and that the conflict was escalating.

A mediation meeting was arranged for Sally and the three girls involved. In the meeting all concerned were able to discuss what had happened, in a safe environment, explain the impact on them of others’ actions and decide what could be done to resolve the issue. The girls were able to see each other’s point of view and explain that the situation had become stressful and hurtful. All the girls agreed that they would not continue to make threats, or make abusive comments, and that matters between their parents should not become issues between themselves.
When the coordinator followed up the case, the girls’ behaviour had considerably improved and there had been no further problems. Mediation had resolved a stressful conflict for the girls and the parents were thankful that a resolution had been reached. The two main instigators, the parents who had initiated the dispute, also made a positive step towards resolving the conflict and agreed to discuss their issues with mediators.

This case shows how conflicts can escalate from school to community and vice versa – and how mediation can help to resolve such difficult situations. It also saved the school and police considerable time.

Conferencing
Conferencing is the name often given to a larger group meeting which is convened to sort out a conflict. It can be used with any size of group, from two people in dispute (when it is more usually referred to as ‘mediation’) to a whole class. Parents and other people can be involved if this is appropriate. With larger numbers, there is often a need for a more formal structure, so that everyone can contribute in an orderly fashion. People sit in a circle, so that everyone can see everyone else. Sometimes a ‘talking piece’ (stone or other object) is used, as in Circle Time.

Useful questions are:

- What happened?
- Who has been affected and how?
- What has been the hardest thing for you?
- What can we all do to put things right?

(Hopkins 2004, p.116)

Conference facilitators may also need to decide on an appropriate order of speaking, and of dealing with issues, to help the achievement of clarity.

Case study: Conferencing (secondary) – bullying and fights

This case involved several girls and a complex history of friendship problems, taunting, name-calling and bullying over a year, that eventually led to a fight between two girls, Helen and Katy, both aged 14. A Year 11 boy and a lunchtime supervisor split them up. A conference was suggested. Other girls had been involved in the problems during the previous year, and Helen and Katy wanted one of them, Nina, to be present at the conference. They were adamant that they did not want their parents there. Two conference facilitators were allocated, a volunteer and a teacher who knew them all well, and they prepared all the participants.

It took a while to get going, as the girls found it difficult to speak. After some ‘time out’ and individual talks, they reconvened, reaffirmed the ground rules (especially trust and honesty), and this time the girls were able to talk about their feelings of jealousy,
loneliness, regrets and a need for each other’s friendship. There were tears all round and an amazing transformation.

A contract was agreed as follows:

- Keep everything confidential.
- Do not call names behind people’s backs.
- Don’t make each other feel unwelcome.
- Don’t jump to conclusions; don’t take gossip as truth; talk to each other directly.
- Respect each other’s friendships.

Another teacher happened to come by. She was amazed to see the three girls laughing and joking around together.

Restorative conferencing

‘Restorative conferencing’ is the name often given to a conference that takes place after an incident of harm has occurred. It is important that the wrongdoer admits some responsibility, although there are often explanations to be made and sometimes conflicts to be resolved as well. Often parents (of the person responsible and the person harmed) attend, as do form tutors, year heads and any other appropriate staff.

Questions may need to be more focused around the incident than the ones for general conferencing above; for instance:

- Can you explain what happened?
- What were you thinking at the time?
- How were you feeling at the time?
- What have been your thoughts since?
- What are they now?
- How are you feeling now?
- Who else do you think has been affected by this?

(Hopkins 2004, p.118)

Case study: Restorative conferencing (secondary) – sexual incident

Curtis had pulled down Stephanie’s trousers in front of the class for a joke. After talking to the children, the school decided to organise a conference instead of taking punitive action. They rang the parents to explain the process and asked if they would be prepared to attend. Curtis’ grandmother came and Stephanie’s parents. The conference facilitator helped them and the young people to talk about what happened.

Later Stephanie’s parents said:
Stephanie was very upset. But the school was very good. The head teacher, then the class teacher, then the conference facilitator all phoned to keep us informed. We thought it was better to face people rather than do things by letter or someone going to and fro between people. Curtis needed to see how wrong it was and how it had affected everyone. We wanted Stephanie to have her say. Curtis was very upset and apologised and said he never should have done it. His nan was very upset too. He agreed to go to some counselling sessions. He has called round for Stephanie since and they seem to have put it behind them. I found the process impressive, quick and positive – it allows you to have your say and find out why things happened. It treated the incident with the seriousness it deserved. The outcome was much better than I expected.

Curtis’ grandmother also commented:

The school kept in good contact with us. Curtis thought at first it was nothing to worry about, but eventually he realised how bad it was, and asked me to go with him to the conference. He was very worried about meeting Stephanie’s parents, he thought he’d get shouted at. I wanted to know why Curtis had done it; he and Stephanie were friends. I was quite scared about going to the conference, but it was not like I expected it to be – it was really good. Her parents were angry but also understanding. Curtis said it was only meant to be a joke but it went too far – he promised it wouldn’t occur again. Stephanie was worried other kids would laugh at her, and Curtis promised to stick up for her if that happened. The conference was more helpful than a telling-off as Curtis had to face up to hearing what he had done and take responsibility – it was more personal.

Sometimes restorative conferencing can be used instead of calling the police, as in the cases below.

**Case study: Restorative conferencing (secondary) – theft from a teacher**

A Year 8 student, Carl, admitted taking a wallet from a teacher’s coat during a lesson. Carl spent the money from the wallet at lunchtime with some of his friends. He then returned the wallet without the money. Carl, and his friends who had spent the money, agreed to a conference with the teacher, Mr Grey, who agreed to this course of action rather than reporting the matter to the police. The parents of the students were informed and agreed with the school dealing with the matter by way of a restorative conference.

The conference was facilitated by the restorative justice coordinator and the school-based police officer. During the conference Mr Grey was able to say how this matter had affected him and that he had been angry and fed up when he realised what had happened. The boys who had helped spend the money were unaware it was money stolen from Mr Grey and all, including Carl, apologised. Carl agreed to pay back the money and his friends said that they would help with this as they had benefited from Mr Grey’s loss. During the conference it emerged that Carl had been angry with Mr Grey because of an earlier incident. This was discussed, which led to a better understanding of what had
happened. Mr Grey suggested that the boys consider joining an after-school club that he ran, and they said they would think about this. The other boys suggested that Carl could have a ‘time out’ card to use when he got angry instead of doing something like this again. Carl agreed to suggest this to his tutor.

After the conference Mr Grey said that he thought the boys had taken responsibility for their actions, and he felt better for having attended the conference. He also felt their apology was genuine. Carl and his friends said that this had been a good way to sort things out because everyone had the chance to talk and the adults had listened to the students. Mr Grey was reimbursed for the loss of his money and Carl did not do anything similar again.

Case study: Restorative conferencing (secondary) – cigarette lighter prank

Just for a prank, Dean (aged 14) used a cigarette lighter to brand two people. One of them was permanently scarred. The school called the police. The parents of the victims wanted the boy prosecuted. He had not been in trouble before, so the police suggested a restorative conference, if the school, the victims and their parents agreed. Everyone agreed, and the conference included Dean and his mother, both victims and their parents, and the conference facilitator. At the beginning of the conference the victims’ parents were very angry about what had happened. Then Dean spoke about how horrified he had been at the effect of what he had done, and how sorry he was. The victims accepted his apology and the conference ended with everyone shaking hands and hugging each other. From this incident, Dean’s mother and the parents of the victims became friends. Dean never offended again. This process helped the participants put the event behind them, without criminalising a young person who made a mistake, albeit a serious one.

Preventing school exclusions

Several schools use restorative conferences to prevent school exclusions or, if exclusion is necessary, to help children reintegrate into school after exclusion.

Case study: Mediation after suspension for swearing (secondary)

Paul was 13 and struggled at school. He had been disruptive and had mentally opted out of several subjects. However, with some outside help, he had decided to try harder. One day he and two friends decided to go to the lunchtime computer club, one of his favourite activities. The teacher, Mr T, allowed his two friends in, but told Paul to leave because of his reputation. Paul swore at Mr T and was suspended from school for three days. Paul felt it was all very unfair.

Paul’s mother went to the school to explain Paul’s feelings. The head of year arranged for Paul and his mother to meet with Mr T, who explained that he had a lot of expensive equipment in the room, and could not afford the disruption that he knew Paul had caused previously. Paul explained that he was trying to turn over a new leaf. Mr T then invited
Paul to be a monitor at the computer club, helping other children when they got stuck. Paul was delighted to be offered this chance to show that he could do better than in the past.

**Case study: Restorative conference instead of exclusion for causing injury**

Four Year 7 students had been running in a corridor. They came to a sudden halt outside their classroom, and during the pushing and shoving, the door to the classroom was flung open. Their tutor, Ms Smith, who was standing on the other side of the door, was hit in the back by the door and knocked across the room. She sustained minor injuries to her back and head, and had to go home as a result.

The deputy head of the school offered a restorative conference instead of the students being excluded. The students and Ms Smith agreed to this. During the conference the four boys heard from Ms Smith the extent of the harm they had caused her, how she had had to contact her partner to come and collect her from the school, that she felt upset and angry about what had happened and how let down she felt by their behaviour.

During the conference the boys lowered their heads and spoke about how bad they now felt, after hearing from Ms Smith about the impact on her of their behaviour. They were able to take responsibility for their actions and all four students apologised to Ms Smith, which she accepted. The students agreed to look at ways they could encourage other students not to run in the corridors.

After the conference the students said that they were glad that they had the opportunity to sit down with the teacher, even though they were scared at first. They felt that their apology meant something to Ms Smith and that they would now no longer be embarrassed to go back into her class. Ms Smith said that their apology felt sincere and she now believed they fully understood the harm they had caused her. She felt this would not have happened if the conference had not taken place.

**Support Group Method to reduce bullying**

The Support Group Method was originally called the No Blame Approach, but the name was changed to avoid the impression that ‘bullies were let off’, which was not the case. It was first used in 1991 and was developed by Barbara Maines (an educational psychologist) and George Robinson (a head teacher). It is a seven-step process used by a teacher or facilitator when a child has complained about being bullied. This is a summary of the process:

1. *Talk with the victim.* The facilitator starts by talking with the child. The aim is to concentrate on feelings, not to gather facts or investigate. The child is asked for his or her consent to go ahead with the process, and is usually ready to do so when the non-punititive aspect is explained, as victims often worry that if bullies are punished, they will be re-victimised. They are more interested in something being done to stop the bullying. The facilitator may ask the child to do a picture, poem or piece of writing to show how he or
she feels. The facilitator also asks for the names of those doing the bullying, but also for some names of bystanders and friends.

2. **Convene a meeting.** The facilitator arranges to meet with the group of students mentioned by the victim, usually a group of six to eight. The facilitator tries to include helpful young people as well as those who caused the distress. The victim is not present.

3. **Explain the problem.** The facilitator explains that the victim is having a hard time at the moment, and may use the picture or piece of writing to illustrate this. The facilitator does not discuss the details of the incident, or allocate any blame.

4. **Share responsibility.** At this point some group members may be looking uncomfortable, possibly anxious about punishment. The facilitator explains that no one is in trouble or going to be punished, there is a joint responsibility to help the victim to be happy and safe, and that the group has been convened to help solve the problem.

5. **Ask for ideas.** The facilitator asks the group for ideas. Group members are usually genuinely moved by the account of the victim’s distress and relieved that they are not in trouble. No one has been pushed into a defensive corner by accusations, and the power of the group has shifted from the ‘bully’ to the group as a whole. Each member of the group is encouraged to make a commitment to help for example: ‘I will ask him or her to sit by me in class.’

6. **Leave it up to them.** The facilitator ends the meeting by passing over the responsibility to the group, and arranges to see them again about a week later. No written record is kept – it is left as a matter of trust.

7. **Meet them again.** After about a week, the teacher discusses how things are going with each student separately, including the victim. It does not matter whether everyone kept to their intention as long as the bullying has stopped.

(Robinson and Maines 1997, 2003)

**Case study: Support Group Method**

*This case study was written by the mother of a victim of bullying.*

This case study concerns my daughter Emma, when she was 13, at the beginning of her second year at secondary school. She felt she was being laughed at and excluded by her group and spent all her lunchtimes in the school library. We had tried to talk to her form
tutor, who was new to the school, but she said that nothing could be done unless it was an academic problem. From being a confident outgoing young person with many friends, Emma became more and more reclusive. In the end she refused to go to school at all. At this point we rang a teacher who had been helpful in her first term, and found that she was the teacher responsible for the Support Group Method at the school – she arranged to meet us the very next day.

Emma came with us, but would not join in at first, until Mrs S skilfully drew her in. She then saw Emma on her own the next day, and asked her to write down how she felt. She wrote that she felt she was ‘the odd one out’, ‘the one there was no room for’, the ‘fifth out of four’, the ‘seventh out of six’. She said that sometimes she wished she was dead, it wouldn’t matter as no one would miss her if she died. Emma gave Mrs S a list of the girls involved.

Mrs S then spoke to the girls concerned. They were shocked. ‘But Emma always seems so confident and she’s good at everything. We had no idea she felt like that.’ They readily made suggestions to make sure they included Emma in their activities. Within a few weeks, Emma was back in the swim with her friends, enjoying a rich social life. It was a great relief to me as a parent.

Restorative approaches in informal situations

There are many situations involving youth groups of school age where restorative approaches are useful.

Case study: Informal situations – theft of a tin of sweets

This case study was written by one of the leaders of a youth group for young people aged 11 to 17.

Once a term we used to take the group to stay in a church hall in a nice place for the weekend. On this particular weekend we noticed that there seemed to be a lot of sweets being eaten, but we were busy with many tasks and thought little of it. Two 12-year-old boys new to the group seemed to be the main ones offering them around, and we wondered if they felt they had to earn their friendship in this way.

After we returned, we got a phone call from the leader of a group of learning-disabled young adults: their tin of sweets had disappeared from its usual place under the stage in the hall. Our hearts sank – we knew instantly what had happened. My colleague knew the boys better than I did, and went to see them; they were ashamed of what they had done, but had no money, and offered to write a letter of apology. We then talked to some of the other young people, as they had all been implicated by being part of the group. They had accepted the sweets although they had sensed that something was not right. It was impractical to contact all those who had been on the weekend, and it was unfair and too expensive for a small group of young people to pay for all the sweets, so we asked what they could do to put things right. They made a large group card, full of drawings and written messages. We used youth club funds to buy a replacement tin of sweets. My colleague took the tin of sweets, card and letters of apology in person to the leader of the other group, who said she would share these with her group.
This example shows how an incident can be handled in a restorative way. Although dependent on external help, the young people all made a contribution to taking responsibility for what had happened, and towards putting things right as far as they were able.

Case study: Informal situations – an apparent case of bullying

This case study was written by a parent (who happened to be a trained mediator) of one of the children involved.

This was a case that, on the surface, appeared to be a clear case of bullying, but turned out to be more complex. In a church setting three young people aged 12 seemed to have fallen out. Two girls, Louise and Abi, seemed to be bullying and chasing a boy, Leon. All three also attended the same school and Saturday orchestra, and there had been an incident where Leon’s cake from cookery class had ended on the ground. Things were getting to the point that the conflict spilled over to the young people’s parents.

I was the parent of one of the girls, Abi. Although I was not neutral in the way a mediator should ideally be, I could see that things were going to escalate or result in permanent bad relationships if I did not try to do something. I consulted with my daughter, who said she had no idea what it was about, but as Louise was her best friend, she just supported her and joined in with chasing Leon. We decided to invite the other two young people and a parent each. The young people and I sat on upright chairs in a circle, with a parent in an easy chair behind each young person, in case they needed support. I asked each of them to explain why they were acting as they did.

It turned out that Leon had made a derogatory remark to Louise about her violin playing after one of the Saturday orchestra rehearsals. Louise felt quite put down by this, and tried to find a way of getting back at Leon. Abi just joined in. When all this had been aired, they apologised to each other. Things were not always easy for them at school, and as they had previously been friends, I asked them how they could support each other with any difficulties. They came up with several suggestions. It was like bursting a boil—all the nastiness drained away, and they were the best of friends again.

Using all the processes

Lewisham schools

Schools that take restorative processes seriously choose the most appropriate process for the situation. Crofton School in Lewisham, London (1200 children on the school roll), ran a pilot project from March 2003 to July 2004. A key area of focus of the work from the outset was to assist with reducing exclusions. The outcomes of the project were, among others:

- 20 restorative interventions were offered instead of exclusion
- 5 restorative interventions resulted in students who had been truanting returning to school
- 10 restorative interventions were used as a reintegration after an exclusion.
In addition there were:

- 25 restorative interventions as a result of a particular incident or area of conflict
- 4 restorative interventions that were offered instead of police prosecution
- 5 Support Group Method interventions for bullying
- 5 Circle Time interventions with groups of students to resolve ongoing areas of conflict.

The school’s 2003/04 target for reducing fixed-term exclusions was a reduction from the baseline number by 10 per cent. By the middle of the summer term, fixed-term exclusions had fallen by almost 50 per cent. Other factors may also have contributed, but the use of restorative processes was clearly an important factor (Newton and Turnbull 2004).

Sefton Centre, Liverpool

The Sefton Centre for Restorative Practice was started by Steve Eyre, manager of the local Youth Offending Team. Working together with other agencies, after initial training from Real Justice UK (now called the UK branch of the International Institute for Restorative Practices), the centre has brought restorative practices training and support to the YOT, to 35 primary and secondary schools, and to children’s homes for looked-after children.

Secondary school students have been trained in peer mediation. And in primary schools, children were trained to be peer mentors and to conduct friendships along restorative lines. Schools installed brightly coloured ‘Friendship Benches’ in playgrounds – if a child is feeling unhappy, he or she goes and sits on the bench, and one of the peer mentors joins the child and has a conversation about whatever is bothering him or her.

Restorative conferencing is used for incidents in school such as bullying, theft, assaults of staff and student fights. In 20 schools in the most deprived area of Sefton, the Sefton Centre has partnered with the government’s Behaviour Improvement Programme. In these schools, permanent exclusions have been reduced by 70 per cent since 2003: ‘It’s better to build bridges than walls,’ said one conference facilitator. In addition, a change in the schools’ culture occurred: ‘It’s not just about behaviour: it’s a far more positive learning environment for the kids, a happier, more relaxed school, where the kids can engage with education more successfully.’

The importance of the Sefton Centre is that it is a multi-agency project and that it views restorative practices as a way of life rather than a technique to be implemented (Mirsky 2006).

Hampshire Family Group Conferences

Hampshire County Council has developed the use of Family Group Conferences (see Chapter 4) to deal with problems of behaviour and attendance in schools. It has received
400 referrals to its service since its inception in 1999. A research report by Sheffield University showed a range of positive changes, as well as positive experiences from participants (Crow, Marsh and Holton 2004).

**Government initiatives**

**Safer Schools Partnerships**

This project provided funds from the Youth Justice Board in 2004–2005 to train members of schools in restorative approaches. The training aimed to provide 100 schools with training for two members of staff, one a school-based police officer, the other a teacher from the school management team. A whole-school approach was emphasised (Bowles, Reyes and Pradiptyo 2005; Haines 2005).

**National Restorative Justice in Schools Programme**

From 2001 to 2004 the Youth Justice Board funded nine local initiatives of Youth Offending Teams working with schools: Barnet, Blackpool, Hammersmith and Fulham, Lambeth, Medway, North Lincolnshire, Oxford, Rhondda Cynon Taff and Somerset. In total six primary schools and 20 secondary schools took part. The programme focused especially on bullying as there was evidence to show that there were links between bullying, anti-social behaviour and crime. The main processes were restorative conferences, peer mediation and a whole-school approach; 625 conferences were held, involving 1434 students and 220 supporters; 89 per cent of students said they were satisfied with the outcome and 93 per cent thought the process was fair.

The evaluation showed the importance of a ‘whole-school approach’ to implement restorative practices successfully. The teachers’ survey showed that there had been significant improvement in student behaviour compared with the other schools used for comparison, where behaviour had declined. Twelve of the schools regularly used conferences to prevent exclusions or to reintegrate excluded students. The evaluation concluded that restorative justice is not a panacea for problems in schools, but is a useful resource if implemented correctly, to improve the school environment and to enhance learning and development of young people into responsible and empathic people (Bitel et al. 2005).

**The National Behaviour and Attendance Strategies**

The National Behaviour and Attendance Strategies are the suite of initiatives from the Department for Education and Skills (DfES) responsible for schools in England, at the time of writing (2006). Several strands are supporting the development of restorative processes:

- The Behaviour and Attendance strand of the National Strategies is encouraging long-term cultural change in schools towards positive behaviour improvement programmes, within which restorative processes can be developed.
The professional development programme for those in schools with a role for behaviour includes learning materials about implementing restorative processes.

DfES advice for schools on violence reduction includes elements on restorative processes such as restorative conferencing, Circle Time and peer mediation.


The curriculum for developing social, emotional and behavioural skills means that primary pupils, and subsequently secondary pupils, will have the chance to develop skills and understanding related to managing relationships. This, alongside the Citizenship and PSHE (personal, social and health education) programmes, means that a more substantial focus of the curriculum is on children and their growth.

The Education and Inspection Bill (2006) has a section about discipline and reducing school exclusions.

All of this needs to be understood within the framework of ‘Every child matters’, the national agenda for children’s services (Robb 2006).

Other commentators also recommend ‘that teachers and other school staff are trained in a wide range of restorative and problem-solving techniques which can resolve conflicts between pupils and between pupils and teachers’ (Allen 2006, p.13).

Scotland and Northern Ireland
Teaching conflict resolution and peer mediation in schools has been going on for a long time in Scotland and Northern Ireland (Lawrence 2000; Tyrrell 2002). More recently (2004) the Scottish Executive has funded three pilot projects to undertake restorative practices in schools, to combat disruptive behaviour. In North Lanarkshire, the project was designed to be implemented across the whole authority, in Highland to be used in ten schools, and in Fife to focus on school exclusions (Scottish Executive 2004). In addition Glasgow Restorative Justice Service (see Chapters 7 and 14) launched a schools service in four schools, later extended to four more; between 2004 and 2006, it worked with 574 students, and helped to avoid 166 school exclusions (Lewis 2006).

Summary
This chapter has provided an overview of the restorative processes being practised in many schools, and how they work in the school context. Schools which have adopted a ‘whole-school approach’ are finding that the different processes work together well because they are all based on a restorative philosophy; and they have begun to make positive and lasting changes in the relationships that make up the school environment.
References


CHAPTER 7

Restorative Justice with Victims and Young Offenders in the UK

Introduction
One might think that legislation and practice are consistent throughout the UK, but this is not the case. Most criminal justice legislation applies to England and Wales, and some of this legislation applies to Northern Ireland, though usually with variations. However, Scotland has a completely different legal system. This chapter includes sections on all three areas.

There has always been some informal work done by youth justice social workers helping young people to apologise for harm they have caused, as the idea of restorative justice for young people has considerable appeal. Many members of the public feel that there is still hope for young people who offend – they might be able to mend their ways – whereas many people think that adult offenders are ‘lost causes’. People see restorative justice as a way of teaching young people about the consequences of their actions. Victims are also more inclined to forgive young people and give them another chance.

The majority of restorative justice schemes in most countries start with young offenders. Many of them divert young people from the criminal justice system through restorative justice (see Chapter 11). Only after the establishment of a scheme for young people do most countries move on to adult schemes – although this was not the case for the UK, where adult victim–offender mediation services were better established in the early days than schemes for young people (see Chapters 2 and 8).

ENGLAND AND WALES

The expansion of restorative justice for young people in England and Wales since the late 1990s was initiated by new legislation which provides some specific opportunities for restorative approaches to be used.
Crime and Disorder Act 1998

The Crime and Disorder Act 1998 (Home Office 1998) set up the Youth Justice Board (YJB) to oversee work with young offenders, and Youth Offending Teams (YOTs) in each area of England and Wales, bringing together police, social workers, probation officers and health and education workers. The principal aim of the YOTs and the legislation was set out as the prevention of future offending (Section 37(1) of the Act). This brought back the value of intensive work with young offenders on many fronts – on accommodation, alcohol and drug problems, school truancy, literacy and work skills, to name but a few. Parenting Orders and programmes are also included in this legislation.

The Crime and Disorder Act 1998 introduced Reparation Orders for low-level offences, as a way for young people to pay something back to society for the harm they have caused. However, this did not of itself prescribe restorative practices, as the reparation legally demanded can be undertaken in a non-restorative way: for example, a young person can be directed to undertake 12 hours of gardening for a local project as reparation for their offence, without even thinking about their victim. Indeed, this has been the interpretation of the law and the practice of many YOTs.

However, the most meaningful way of carrying out this legislation involves restorative processes in deciding the most appropriate reparation. So there is a large role for victim awareness work, mediation, reparation and conferencing in all the provisions directed to include an element of reparation. And the YJB targets for YOTs now reflect this: the YJB target for restorative justice was changed in 2004 (and remained the same for 2005–2006) to be:

- Ensure that 75 per cent of victims of all youth crime referred to YOTs are offered the opportunity to participate in a restorative process, and 75 per cent of victims participating are satisfied.

(Youth Justice Board 2006)

From April 2007, the restorative justice target will be changed to:

- Ensure that victims participate in restorative processes in 25 per cent of relevant disposals referred to YOTs, and 85 per cent of victims participating are satisfied.

(Cullen 2007)

This is one of the 13 performance measures that YOTs must report on in their youth justice plans. The YJB has published booklets of ‘Key Elements of Effective Practice (KEEP)’ for each area of work, including restorative justice, outlining key indicators of quality (Youth Justice Board 2003).

When the legislation first came into force, it was framed in such a way as to assume that all the arrangements for reparation would be in place before the case came to court. However, in view of the time constraints (because of simultaneous legislation on speeding up the court process), there was often not enough time to consult victims. So most early Reparation Orders included only community reparation. Fortunately, as time...
went on, there was an acceptance that courts could set the number of hours of reparation, leaving the YOTs to arrange the most restorative way of doing this, taking victims’ needs into account. This gives more time to consult victims in a meaningful way.

Under the Crime and Disorder Act 1998, there are four different provisions which can easily include a restorative approach:

- Final Warnings
- Reparation Orders
- Action Plan Orders
- Supervision Orders.

There are other orders, such as the Detention and Training Order, which can also include restorative approaches. In 2004, the National Standards for Youth Justice stipulated that ‘all assessments must consider the needs of the victim and plans will include restorative processes’ (Youth Justice Board 2004, section 8.9). So restorative work is seen as part of all youth justice work.

Final Warning

This is usually given for a second minor offence, following a reprimand for a first minor offence; the young person must admit the offence. Police are recommended to deliver the Final Warning either as a restorative warning or to arrange a full restorative conference, although not all police work restoratively yet. As part of a Final Warning, the young person must be referred to the local Youth Offending Team for a programme of interventions to prevent re-offending. This can include victim awareness work, mediation or reparation. At the Final Warning stage participation is voluntary, but refusal may be taken into account if there are further offences.

**Case study: Final Warning – smashed milk crate**

Matthew (aged 16) was walking back from a party in the early hours of the morning with a few friends. It was the first time he had drunk alcohol; he was also taking regular medication. This combination appeared to have made him highly impulsive and muddled his judgement. During their journey home the group came across a milkman on his rounds. They surrounded the float and started shouting at the milkman. Eventually, a crate of milk was smashed. Police arrived and arrested Matthew, who had led the events. As this was his first ever offence, a Final Warning was considered appropriate. The police officer at the YOT arranged a conference to take place with the agreement of the victim and the offender. At the conference Matthew indicated that he was ashamed and sorry for what he had done, and listened as the milkman explained the economics of milk delivery and that he had had to pay for the lost milk. Matthew had already offered to pay for the lost milk, and had brought £20 compensation along with him. As discussions continued, all animosity was completely dispelled and the conference ended with the milkman offering Matthew a part-time job.
Case study: Final Warning – garden centre damage

Background

James, aged 14, had been playing with three other school friends and took a football over to the car park of a nearby garden centre. Noticing that the garden centre was open, they wandered in to investigate and then entered a polythene tunnel where plants were being grown. The boys started picking up some of the plant pots and throwing them at each other.

Later that day, the boys were apprehended. As James had already had a previous reprimand he was given a Final Warning for this offence and agreed to nine hours of reparation.

The garden centre was contacted by the Youth Offending Service victim liaison officer. Staff at the centre indicated that they would like to meet with the offender(s) and James also indicated that he would be willing to take part in a meeting. A referral was made to the local community mediation service to explore victim–offender mediation.

Case visits

James was contacted first by the mediator to explore his understanding of a restorative meeting and his willingness to take part. James indicated that he would be willing to answer any questions and apologise for his behaviour, which he described as thoughtless.

The mediator then met with two of the centre’s staff to explore what they hoped to get out of a meeting. Primarily they wanted the opportunity to explain to the young person the effect of the offence, both in financial terms and in motivational terms for staff working at the centre. A member of the board of trustees at the centre also wished to participate to understand for himself more about the restorative process, as well as to talk to James. The mediator explored with the staff whether three adults could be a little daunting for James and agreed to check out with James how he would feel about this (James had previously asked who would be present at the meeting).

The mediator paid a second visit to James, explaining the types of questions which were likely to arise at the meeting, and ensuring that he would not be overwhelmed in the presence of three adults. James confirmed he was happy to attend and answer all their questions. James’ father at this point expressed disappointment that it was James who was going to take all the blame (while not condoning James’ behaviour), as the other three boys had got off with a reprimand. The mediator explained again that this process was not about blame, but an opportunity for the victims to understand more about the background to the offence and for James to understand the consequences of his behaviour. The focus was on James as an individual, helping him to accept responsibility and put things right.

The meeting

The meeting was arranged for the following week in an administrative room at the centre where the offence had taken place. Normally, meetings would be arranged in a neutral territory but all parties agreed that this venue would be convenient and suitable. James was accompanied to the meeting by his father. The meeting was facilitated by two mediators.
After the initial welcomes and introductions, the meeting started with ‘uninterrupted time’ in which the parties stated what they hoped to get out of the meeting. James used his time to say that he was sorry he had committed the offence. The other parties accepted his apology and recognised his courage in coming to the meeting alone (without his co-offenders) and voluntarily. The staff were able to explain to James the following effects of his offending behaviour:

- Staff, who had spent many hours collecting rare native seed to propagate endangered species, were very demotivated. The damage had disrupted a two-year cycle and would have to be started all over again.

- The business was a charity and many of the staff worked voluntarily – this made what had happened all the more demotivating for people who gave their time freely.

The staff accepted that the offence had been a bit of a prank and recognised that to the boys the plant pots just looked as if they contained nothing, or a collection of dead twigs. They were relieved to hear that the centre had not been especially targeted.

James agreed to carry out six hours of his reparation working with the gardener who had been working on the project. It was pointed out that this was not to punish James but to increase his understanding of the effect of his behaviour. James also agreed to explain to his friends, who had not been present at the meeting, the impact that their offence had had on the staff and business. His friends were also invited, by the manager, to come along to talk to the staff directly to learn more about the work which goes on in the centre, if they so wished.

All parties agreed they had found the process beneficial. James completed his work with the gardener and said he had learnt his lesson and would not be offending again.

Reparation Order

This requires young offenders to make reparation to the victim or to the community. It can involve up to 24 hours’ work and must be completed within three months. It does not include monetary compensation. Victim awareness work, mediation and reparation work can all count towards the hours of a Reparation Order. Victims need time to consider whether they would like direct reparation, and it is important that they are not under any pressure to take part. If they do not want to take part, community reparation will be more appropriate, and many community organisations can be involved. Victims can also be consulted about the type of community reparation they would like the young person to do. The YOT puts forward suggestions in the pre-sentence report, and these are usually agreed. In some areas the court specifies the number of hours and leaves the YOT to arrange the content afterwards – this gives more time to consult the victim. In the following case study, the victim did not want to take part or suggest any kind of work, so the YOT found a project which involved engaging with and helping the community.
Case study: Reparation Order – welcome board for school

Anita had been a YOT client for some time following offences such as robbery, carrying an offensive weapon, shoplifting and assault. Having completed various reparation projects, it was clear that Anita was addressing her offending behaviour, moving away from her negative peers (a local all-girl gang) and taking part in education. Anita had demonstrated excellent artistic talent and for her most recent order (Reparation Order for 24 hours, running alongside her Supervision Order) it was agreed that she would produce a ‘Welcome’ sign for a local primary school. This task recognised the change in Anita’s behaviour and the reduction in the risk she posed to others, as she would be working with a class of 25 seven-year-olds as part of their curriculum. She was supervised during every session by the YOT Reparation Officer.

The ‘Welcome’ sign was on a board measuring 8 by 4 foot. The process involved agreeing on wording, producing images of school life with the class to be painted on, teaching colour mixing, supervising smaller groups in the actual painting and finishing off the final piece. It took more than the 24 hours and Anita decided to complete it voluntarily (still under supervision). The sign was erected at the front of the school.

Anita already had excellent art skills, but she also developed an appropriate way and language to motivate the class and teach them. After completing her order, she went on to an art and design course at a local college. Anita commented on the value of the project to her, and the school included it in their OFSTED inspection and were praised for their community links with young offenders.

A case study of a Reparation Order resulting in mediation with the victim can be found in Chapter 4, pp.75–6.

Action Plan Order

This Order requires a young offender to follow an action plan for three months, which can include a variety of activities designed to prevent further offending. These activities are specified in the Order and can include victim awareness, mediation or reparation. An example of an Action Plan Order has already been given in Chapter 4, pp.88–9.

Case study: Action Plan Order – fire damage to church

This case study does not specify which Order was used: the crime was serious but the boys had never previously offended, so it is likely that a short-term Order such as the Action Plan Order would be used.

A church in a small village in a very rural area was severely damaged by fire by two 11-year-old boys and one ten-year-old boy. Estimated damage was £500,000.

All three boys were residents in the village and their families received a great deal of negative feeling from local people in the community. The press was involved and it
became very difficult for the boys to go out in public. The church had to be shut and regular services were held in the local church rooms, which had limited space. Services for weddings and funerals had to be held at other churches in the area. A number of meetings were held with the vicar of the church and the young people to assess the suitability of direct reparation.

The boys were extremely remorseful about the incident; however, due to their young age they were unable to understand the extent of damage that had been caused to the church and the community as a whole. It was therefore decided that the Youth Offending Team would organise a restorative conference with the vicar, churchwarden, the boys and their parents. During the meeting the vicar was able to give examples of how local residents had been affected and the impact it had had on ceremonial proceedings. He also explained the importance of some of the items which had been destroyed because of their reckless actions. The parents were able to talk to the vicar and the boys about how they had been affected by this.

In conclusion to this meeting, the boys offered to help put chairs out every week in the church rooms where ceremonies were being held until the church had been repaired. The vicar was also keen for the boys to visit the church so they could gain a better understanding of the damage they had caused. The boys also offered to make a contribution of their weekly pocket money towards the restoration fund. They continued to do this for a period of seven months.

Supervision Order

A Supervision Order provides supervision of a young offender for a period of time (often one or two years). These Orders have existed for many years, but the Crime and Disorder Act makes provision for them to include mediation and reparation where appropriate.

Case study: Supervision Order – theft of briefcase from car

Tony, aged 17, lost his job and was short of money. An acquaintance who lived nearby suggested a quick way to remedy this. They would break into cars and steal valuables. Although he knew this was wrong, Tony went along with this and acted as look-out.

One of the cars they broke into had a briefcase left in it. This belonged to a businessman and had six months’ work inside it. The thieves searched the briefcase for money, then scattered the contents along the road. The victim was extremely upset and angry, but fortunately managed to retrieve most of the lost work.

Tony and his friend were later caught and taken to court. Tony was put on a Supervision Order. His YOT worker asked him how he thought the victim felt, and Tony felt ashamed and said he would like to make amends. The case was referred to the local mediation service.

At the mediation session, the victim expressed his anger at the damage done to his car and the potential loss of his work. Tony apologised and offered to pay for the damage to the car window. Both his apology and the offer of payment were accepted.
Youth Justice and Criminal Evidence Act 1999

The Youth Justice and Criminal Evidence Act 1999 provided a new sentence for 10–17-year-olds who pleaded guilty and were convicted for the first time. It is the first legislation in the UK with directly restorative provisions including the victim in the process.

Referral Order

This has been described in Chapter 4, but an outline is repeated here for clarity.

The Youth Justice and Criminal Evidence Act 1999 brought in Referral Orders, which are made by courts for a period of time between three and twelve months. The provisions of the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 were consolidated, with minor amendments, into the Powers of the Criminal Court (Sentencing) Act 2000.

The courts then refer the young person to a Youth Offender Panel (sometimes called a Community Panel), which meets in an informal setting away from the court. The people involved in this meeting are the young person, their family, the victims if they wish (but there is no pressure to attend), a member of the Youth Offending Team (which is responsible for preparations for the meeting) and two panel members drawn from the local community (and provided with training for this work), one of whom chairs the panel meeting. Other relevant people may also attend, such as a teacher from the young person’s school.

The meeting considers the circumstances leading to the offending behaviour and the effect of the crime on the victim. The panel then agrees a contract with the young person, including reparation to the victim or to the wider community, and a programme of activity designed primarily to prevent further offending. The aim of the Referral Order is for the young person to accept responsibility for his or her offending behaviour and — along with those with a positive influence over the young person — to consider how to deal with the causes. Regular review meetings are held, including a final panel. The conviction becomes ‘spent’ as soon as the Order has been completed.

These Orders provide an opportunity for concerned people from the community to be involved in the criminal justice system, in an initiative aimed at putting things right for all concerned.

As Referral Orders were being implemented, it became apparent that they were including some very minor crimes (such as not paying a bus fare of 40 pence), which would previously have been dealt with by conditional discharges. So in 2003 the government passed an amendment allowing some discretion in such cases. In other ways Referral Orders have been deemed a success, and to a large extent they have taken over from Reparation Orders as the first sentence at court.

The take-up rate of victims to the invitation to attend Youth Offender Panels or be involved in reparation varies from area to area, depending largely on the resources (especially time) devoted to victim contact work. Where time is spent listening to victims’ concerns, and meetings are arranged in consultation with them, many victims attend —
in some areas up to 60 or 70 per cent. Where it is not possible to do this, and victims are simply invited to the meeting, fewer are able to come. In some areas resources are so short that victims are not informed about the meetings beforehand – many say they would have liked to attend.

The initial training of panel members is short (about seven days) and only includes one session on restorative justice. This means that panel members often find themselves in a mediation/conferencing situation without the necessary skills. Some YOTs provide extra training for their panel members, or help with the facilitation of the panels, and these do well. Others end up often neglecting victims (and missing opportunities for offenders) because they do not understand the potential benefits of a restorative approach for both. Another difficulty with the process is that panel members are not involved in preparing the parties for meeting each other, so have no rapport with either party before the meeting.

Some of the research on the pilot projects is included in Chapter 14.

**Case study: Youth Offender Panel (victim attended) – damage to van**

Danny, aged 13, forced entry to an ageing commercial vehicle and, in trying to drive it away, broke the steering column. The van belonged to a small business and was going to be used by an extra member of staff to make Christmas deliveries. Unfortunately, due to the age of the vehicle, a replacement part could not be obtained so the vehicle could not be made roadworthy again. The immediate effect of this was that the business could not employ an extra member of staff, and existing staff had to work long hours making deliveries using their one and only vehicle.

A member of the YOT wrote to and then visited the owner of the business, and he agreed to attend the Youth Offender Panel. He arrived 20 minutes before the panel was due to start so that he had an opportunity to meet with the Youth Offender Panel members and discuss what he wanted to say, and what he hoped would be achieved in the meeting. The panel leader explained the procedure for the meeting.

The young person arrived with his mother, and the meeting began. After the purpose of the panel was made clear and ground rules read and agreed to, Danny was asked to talk about what he had done. After this, the victim shared his own experience of the offence and the impact it had on both his business and the person who did not get the expected job. Danny was visibly shocked by this news, and his mother was very upset. The panel leader guided the discussion between both parties, and included Danny’s mother so that she could share her views about what had happened.

Danny apologised for what he had done, and admitted he had not thought there would be any consequences for the owner of the van. It was agreed that he would also write a letter of apology to the victim. In order to make amends to the wider community, Danny’s contract included work on a new local skateboard park which both he and the victim agreed could help other young people use their leisure time constructively and, they hoped, avoid offending.
This panel resulted satisfactorily for the victim, who was pleased to know that the young person had been told of the impact of his seemingly innocuous offence. He was also happy with the letter of apology subsequently received and felt that Danny would benefit personally from the work at the skateboard park by learning new skills.

Case study: Youth Offender Panel (no personal victim) – possession of cannabis

Simon, aged 16, was given a four-month Referral Order for possession of cannabis. He attended the panel meeting with both parents. Simon had had a close relationship with his family, which had become strained because of this offence. There were few risk factors in this case, as Simon bought cannabis from money that he earned legally, and had qualifications.

During the panel, the panel leader asked Simon’s parents to talk about their views of Simon’s offence, which they seemed keen to do. Simon was clearly remorseful and regretted upsetting his parents. This offence occurred at the beginning of summer, and Simon would be spending most of the summer away from London working with his uncle. Simon was willing to come back to London to keep his YOT appointments but asked if he could pay a fine rather than undertake community reparation. The panel asked Simon to ‘fine himself’, as if he were the judge who sentenced him. Simon immediately answered £60, and when asked to explain this amount, said that it was twice the amount he usually spent on cannabis in one month. The panel leader then asked Simon’s parents where they thought the money should be donated, and Simon’s father suggested a national charity. Before the end of Simon’s Order, they took this sum to one of the charity’s shops, and explained Simon’s story. The shop staff were impressed and volunteered to write him a thank you card. This was given to Simon and his family in the final panel, in which family relationships appeared now to be very positive.

Case study: Youth Offender Panel (indirect mediation arranged for later)

A 14-year-old girl, Alex, was on her way home from school with friends when she was pulled to the ground by two boys from her school year, who wrote unpleasant names in felt-tip pen on her face and on her trainers, ‘just for a laugh’. Alex felt very upset and humiliated, especially as she would be seeing the boys every day in school. Her parents called the police and the boys were charged with assault and criminal damage. They received Referral Orders and, as part of this, were offered the opportunity to apologise. They chose mediation and Alex agreed to receive letters from the boys via the mediators (from a local mediation service).

The mediators visited each boy at home with his mother, and spent one and a half hours talking through the crime and its consequences for everyone, especially Alex. The boys began to realise how powerless Alex had felt and why she was now frightened to meet them in school or on the way home, and had stayed away from school. Both boys wrote sincere letters of apology, which the mediators took to Alex at her home. She read
them thoughtfully and asked questions about the boys. She particularly wanted to know why they had picked on her, as she was a quiet person who did not enjoy being singled out. She was able to accept that they had seen the assault as a joke which had gone too far, and that it would not be repeated. She now felt able to return to school. The mediators reported back to the boys that their apologies had been accepted.

Case study: Youth Offender Panel (victim attends reviews)

This case study was written by the victim.

About four years ago I was the victim of a crime. It might seem a minor crime but it caused me a great deal of distress at the time.

While I was at work, the rear windscreen of my car was hit with a brick, deliberately. I had just got the car as a means of independence but also I was about to start a job which required me to drive. The incident happened in the evening so consequently we had to get the car moved, watertight and secured, and I had to have a lift home. It felt like an intrusion and I could not imagine why anyone could feel strongly enough to do this to me. I felt that if they could do it once, they could do the same thing again. I hated taking the car to work after we had it repaired. I was unable to claim on insurance as it was an older car and I had minimum cover. Details were taken by the police and I did not expect to hear any more.

Approximately three to four months later I got a call from the police to say that they had in fact found the offender, and the officer asked if I would be willing to participate in the ‘restorative justice system’. Since I had never heard of it, he explained everything and I thought it sounded a good idea. The meeting was arranged and I waited at the police station for the arrival of the offender. I was shocked to find it was someone whom I was helping at the college where I now worked.

The young lady had been involved in petty crime before, although she was only 14 years old. She was mortified when she realised that she knew me. In discussion she actually said that it was totally impersonal and meeting me opened her eyes to the fact that you do not know whom you are hurting when you do this sort of thing. She was keen to make amends, to get a job to pay for the windscreen, even to clean the car every week for me. She got some flowers and a card to apologise. She had no idea of the difficulties her actions had caused me. To her at the time, ‘It was a hole in the windscreen, so what?’ Her background was difficult and she was reluctant to have her mother attend her review meetings, so I asked her if she would like me to go with her. I supported her through these.

The meetings with her had made me realise that it was not an act committed against me personally, and therefore there was no reason for me to fear it happening again. I felt that the meetings had turned the negative very much into a positive because she was so keen to make amends. I then felt able to get on with my life as normal, and as far as I know she has not been in trouble since.
I am sure that there are circumstances where the restorative justice system would not work for one or other of the parties involved, but for me it was a very positive experience that I would be happy to repeat. I think that it was also positive for the offender.

Data Protection Act 1998

This well-meant piece of legislation was initially a stumbling block to the implementation of restorative work in many areas. It was interpreted as meaning that only the police could make the first contact with victims, because they were not allowed to pass on victim details to YOTs or to voluntary organisations. This placed reliance on the police, who often had no training in restorative approaches and did not understand them. The result was that few victims were included in the various opportunities theoretically open to them. The situation has improved in that many more police have been trained in restorative approaches, and there has also been government encouragement for police (Association of Chief Police Officers of England, Wales and Northern Ireland 2003) to adopt a more inclusive approach concerning passing on details to Victim Support, and also YOTs and mediation organisations as part of the ‘police network’. But it still remains a problem in some areas.

Local organisation of restorative work

It is left up to local Youth Offending Teams to find their own way of implementing restorative provisions. All have Referral Order coordinators to oversee the organisation of Youth Offender Panels. As far as restorative work in general is concerned, in some YOTs all staff are involved, while in others a specialist restorative justice worker takes on this responsibility. Many YOTs use specialist victim contact workers. In a few areas YOTs work together with a voluntary restorative justice organisation or a local mediation service which already has trained volunteer mediators. Below are some examples.

Wandsworth Youth Offending Team

Wandsworth is the largest inner London borough with a population of 260,000, of whom about 21,000 are aged 10–18.

The restorative justice team is made up of two police officers, a victim contact worker (VCW), a reparation coordinator (with sessional workers) and a Referral Order coordinator. The crime prevention manager supervises this team, predominantly due to his experience in restorative justice.

The two police officers both have a long-standing interest in restorative justice, and are both trained in restorative conferencing. The VCW has been trained in victim contact and mediation, and has shadowed victim support staff.

For Final Warnings, one of the police officers assesses all cases and contacts victims in some cases where restorative justice seems most appropriate. This is not an ideal situation (all victims should be contacted), but is the reality within current resources. Restorative conferences, indirect mediation and financial compensation have all been facilitated by the Final Warnings police officer.
For prosecutions, i.e. Referral Orders or pre-sentence reports (PSRs), the other police officer writes to the victim, sending an ‘opt-out’ letter, saying that they will be contacted by the VCW unless they request otherwise. The VCW then telephones and tries to arrange a home visit. If the victim is a young person, then the Victim Support young victim worker also goes. If the victim is a corporate victim, then the police officer, VCW or reparation coordinator may make contact.

All victims are offered a range of options:

- to be listened to, and receive information about what is happening
- to provide information for the Youth Offender Panel/PSR
- to attend panel/meet young offender through other restorative justice process
- to suggest reparation element
- to take part in indirect mediation
- to have other issues addressed – common requests are for property to be returned by police (where they were used as evidence) or for personal alarms. In a few cases, mentors have been provided for young victims.

The VCW usually also meets and assesses the offenders for suitability, undertakes preparation and delivers any mediation process, supported by whichever staff are considered appropriate.

In essence, mediation and conferencing can occur as part of any Order at any time. The YOT attempts to assess all cases for some restorative justice input (Masters 2004).

Somerset Youth Offending Team

Somerset YOT covers a large area, mostly rural with small towns, so there are overall coordinators for Referral Orders and Reparation, but most of the work with young people is undertaken by practitioners based in more local patches.

Two specialist workers based in the YOT make all the contacts with victims because of the Data Protection Act. Until recently this contact was done by telephone, but the workers are now trying to visit them, as this is more satisfying for victims. If victims are happy to talk to other workers in the YOT, they pass on this information.

The victim coordinator also contacts victims to ask if they want to give any information towards the pre-sentence or Referral Order report, and passes this on to the report-writer (one of the practitioners working with the young offenders).

If YOT practitioners working with young offenders know that a young person is willing to meet with their victim, they discuss this with one of the victim coordinators in order to pass this information to the victim. Specialist restorative justice workers undertake all the mediation and conferencing, and have been trained to do this.

The YOT has several community reparation projects to engage young offenders whose victims do not want to be involved. Some examples are:
• doing up a garden for a residential home for people with learning disabilities
• working alongside young adults with learning disabilities at their training centre, helping with planting a garden and with mending furniture for recycling
• being involved in a music studio project, where young offenders can write their own songs, for example an anti-drug rap to be performed in a local village
• on a poster project, making anti-crime posters for sharing with younger children at risk of offending, for example poster on laws about knives for a local youth club
• working in the YOT workshops making bird boxes or repairing bikes that will benefit recipients in the community.

The reparation coordinator has also initiated a Retail Theft Initiative (see Chapter 4), working with the manager of a large store in the county town. But this is a long way for many young people to travel, so local practitioners are identifying nearer stores willing to help (Phillips 2006).

Wessex Mediation and Reparation Service

Wessex Mediation and Reparation Service was set up by Crime Concern and later taken over by SOVA (Supporting Others through Voluntary Action) when the contract with the YOT was renewed and bids were tendered. It works in partnership with Wessex YOT, and covers Portsmouth, Southampton, Hampshire and the Isle of Wight.

As part of this, the Southampton and south-west Hampshire office has a manager (shared with other offices) and four generic case workers who are trained in all the restorative processes and take on all the cases. (In addition the manager and one case worker are trained to work with sex offenders and are the only ones to undertake such cases.) The service works with Final Warnings and all the court orders, with all offences and at any stage that is appropriate to the case. Their philosophy is to tailor the process to each individual case, with the emphasis on mediation and the participation of victims.

Cases with identifiable victims are referred from the YOT and the case worker visits the offender first, then the victim, then helps them decide what would suit them both best. They also take cases where there is no identifiable victim but where family members have suffered a lot from the offending, and are effectively the victims. The local police interpretation of the Data Protection Act allows them access to all data on victims because they are contracted to the local YOT.

The particular court order is not relevant except for the timing aspect. If the orders are short ones, the service starts work immediately. If the young person is on a two-year Supervision Order, the service liaises with the YOT worker to see when the best time would be, for the victim and for the offender. If the young person is in prison, they wait until he or she is being supervised in the community, unless either party wants to start
sooner – as it can be a day’s journey to visit many Young Offender Institutions (prisons for young offenders).

All community reparation is also tailored to individual cases. The service asks the victims if they have ideas of what they would like the young person to do, and try to arrange it. If victims have no ideas of their own, the service has developed a few projects for victims to choose from:

- helping out at the local fire station (this brings young male offenders into contact with men who can be role models – most of them do not live with their fathers)
- working with the local fire service after arson, TWOC (taking a car without consent) and other criminal damage where the fire service is called out. The fire service has videos of the consequences of all these crimes and staff who can relate well to young people
- helping at a ‘special needs’ infant school
- helping at an inner city farm – this placement is useful for young people who cannot relate to people but can relate to animals
- helping with a riding for disabled people project, working with the animals, helping disabled children and adults
- helping at the city council stray dogs’ home
- participating in a graffiti art project for ‘graffiti offenders’, in which they paint murals in places where they are wanted.

The service deals with retail theft on an individual basis too. Shop workers are too busy to attend mediation sessions elsewhere, so a case worker arranges to accompany the young person to the shop where he or she committed the theft. If possible, they speak to the actual worker who was held responsible for the loss, or the person who apprehended the offender (Braithwaite 2006).

Kent Mediation

Kent Mediation comprises several local mediation services, which started by working with neighbour and community conflicts, and have extended their remit to cover work in schools, in families and in the criminal justice system.

Three of the mediation services have service level agreements with YOTs, and take any cases referred to them by the local YOT, where the young offender is willing. (In 2004 there were at least 15 community mediation services involved with their YOTs in this way.) Many of these cases are Referral Order cases, which are referred to the mediation service after the panel. Often the panel asks for a ‘letter of apology’, but the mediation services look further and provide whatever is needed by that victim and that offender – often mediation. The ‘letter of apology’ is completed at the end to satisfy the panel. These three services also have service level agreements to do victim–offender
mediation for adult offenders and their victims. Some of the offences have been very serious: murder, GBH, armed robbery, rape.

One mediation service is also taking part in a Retail Theft Initiative, similar to the one described in Chapter 4. For many young people, the incident of shoplifting is their first offence and they are full of remorse. It means a lot to them to have a chance to give an explanation while a shop manager listens and then helps them move on from their mistake. They also undertake an assertiveness course if peer pressure is a problem. The shop managers (who take it in turns on a rota) feel the scheme is very successful as it has led to a substantial decrease in shoplifting. The initiative has been so successful that it has been expanded to include criminal damage and assault. In these cases the actual victim is invited to the restorative conference rather than someone from the rota (Hinton 2006).

In the mediation service for East Kent, for example, most of the restorative justice work is undertaken by highly trained volunteers, with sessional and permanent staff working on the more complex cases; for example, the schools worker may help if a case involves a victim and offender at the same school. All sorts of methods are used – direct and indirect mediation, using ‘proxy’ victims, letters and videos of apology, reparation, extra courses such as anger management, and liaison with other organisations such as Victim Support. Members of the service sit on steering groups of many agencies to provide expertise on restorative approaches (Freshman 2004).

Restorative justice in children’s homes/residential units

There is a special need for restorative justice for children and young people being looked after in the care system. They are much more likely than other young people to be prosecuted for offences within the home, such as damage to property, and so acquire a criminal record – often where they had none before. If they were living with their parents, such offences would be sorted out within the family. So there have been several projects to develop restorative processes for these situations (Nacro 2003; Walker and Walker 2005).

A pilot project in Hertfordshire divided offences committed in children’s homes into categories:

1. Serious – immediate police response required.
2. Non-serious – no immediate police response required, incident reported to unit manager who decides appropriate course of action.
3. Minor – to be dealt with by using routine social services procedures within the home.

Staff in residential units undertook training to introduce restorative approaches, such as mediation and conferencing. After some months staff reported that they were more able to deal with incidents in the home in a restorative way, and called on the police less often (Littlechild 2003). After the first year of restorative practices implementation, sanctions
were reduced by 59 per cent, calls to the police by 40 per cent, and offending levels by a third (Mirsky 2005).

In another project, a local mediation service undertook cases from children’s residential units. The aim was to help repair disrupted relationships in the children’s home and also, if possible, to prevent young people entering the criminal justice system for offences within the home.

Some YOTs have also developed protocols for private children’s homes. These specify the circumstances in which police have to be involved – very serious offences or where police can have an immediate effect on the situation. For all other cases, care home staff contact the restorative justice practitioners of the two local YOTs, who then mediate the cases as independent facilitators. And with cases where police have been involved, a restorative approach is usually needed afterwards as well (Greif and Yaniv 2004).

**Case study: Criminal damage to a care home**

A young girl in care criminally damaged the care home where she lived on two occasions. She had broken a considerable number of plates and used felt-tip pens on walls and doors to write ‘FUCK OFF STAFF’.

In the mediation session we discovered that her behaviour was a strategy to get herself a different placement. We summarised this strategy into two defined goals:

1. To have as many placements as possible to choose from.
2. To feel reassured that attempts to find placements would not be forgotten.

Care home goals were:

1. To care for her.
2. Not to have to deal with violent behaviour.

Based on that, it was agreed that good behaviour on her behalf and positive reports from the care home would support achieving Goal 1 for the girl and Goal 2 for the care home. The care home also agreed to facilitate telephone contact between the girl and her social worker and to supply postcards for her to send to her local authority social services department weekly, to remind care management that she wanted to move – this would achieve Goal 2 for the girl and Goal 1 for the care home. Everyone left the meeting feeling that they had gained something and that life in the home would be more peaceful in the future.

This case shows that young people living in children’s homes can avoid being criminalised, while still being expected to take responsibility for their behaviour.
Case study: Threatening behaviour towards staff in children’s home

Reuben was a young black man of 17, living in a children’s residential unit. One day things boiled over for him after an argument with a young male member of staff, Jonathan, and he threatened to damage Jonathan’s car. The police were called and arrested Reuben in the car park, brick in hand. He spent the night in the police cells. Jonathan was scared and upset about the incident.

Initially two mediators planned visits to both parties, but when they got to the children’s home Jonathan was off sick, so they had to arrange another visit when he was better. Because of time constraints (the case was coming to court), one mediator ended up undertaking the assessment and the two initial visits. Both Reuben and Jonathan were willing to meet, especially as things were still quite fraught between them.

For the mediation, the second mediator took part, and played a large role. He explained the process and ground rules, and asked who wanted to start. After a brief discussion between Jonathan and Reuben about this, Jonathan started. He gave some background, then talked about his feelings in the moment of the incident, including being scared. He talked for quite a while, and Reuben listened thoughtfully without interruption. Jonathan explained that he did this kind of work because he wanted the best for kids, based on his own experience when young.

Reuben then spoke about the injustice he had experienced, of being locked up overnight in a police cell, and about the simmering tension he had felt, that had exploded at Jonathan. He apologised to Jonathan three times. The conversation then developed into a dialogue, in which Reuben mentioned he had just lost his social worker, so didn’t know whom he could trust any more. Jonathan and the mediators empathised with him over this. A real understanding developed and the session ended with Reuben and Jonathan shaking hands. As they all left, one of the mediators joked, ‘Here we are, four blokes – we can do this stuff’ – and everyone laughed.

As a result of the mediation, the magistrates were able to dismiss the case from court.

Restorative justice and anti-social behaviour

Although Anti-Social Behaviour Orders (ASBOs) apply to adults as well as young people, they are included in this chapter because the majority of such Orders and much of the media attention has been focused on young people.

Anti-Social Behaviour Orders

In response to a perceived rising concern about the increase of anti-social behaviour, the government brought in ASBOs as part of the Crime and Disorder Act 1998. They came into force in 1999. Anti-social behaviour is defined as ‘behaviour that causes or is likely to cause harassment, alarm or distress to one or more people who are not of the same household as the perpetrator’ (Home Office 2006a, p.6). This does not specify the actual behaviour, so can be interpreted very widely to include street drinking, begging, harassment, intimidation, verbal abuse, assault, vandalism, vehicle-related nuisance,
graffiti, litter, noise, kerb-crawling, prostitution – even hanging round on street corners – if it is likely to cause distress (Home Office 2006a).

ASBOs are civil orders made by courts and can be applied for by local authorities, police and registered social landlords (e.g. housing associations), but not by the public. They can be applied to anyone aged ten or over. The civil status of ASBOs means that hearsay and professional witness evidence can be used in applications. The order prohibits the offender from specific anti-social acts or from entering defined areas (e.g. ‘the city centre’ or ‘specified local parks’), and is effective for a minimum of two years – they can also last for an indefinite length of time. Although the ASBO is a civil order, breach of the conditions is a criminal offence which can lead to a prison sentence of up to five years for an adult or two years for a juvenile of 12–17 years, or a Community Order for 10–11-year-olds. Although the legislation applies to adults and juveniles, ASBOs have mostly been used to target young people causing a nuisance. Initially there was no support for young people to help prevent further anti-social behaviour, but since 2004 Individual Support Orders (ISOs) have been available, implemented by YOTs. However, there are no stated provisions for repairing the harm (Home Office 2006a, p.41).

Take-up of ASBOs was slow, as many authorities were reluctant to impose such a heavy and punitive sanction on young people. Further legislation was brought in during 2002 and 2003 to encourage greater use of ASBOs by allowing them to be added to criminal court orders, and providing interim ASBOs which could be applied immediately without the presence of the defendant. For many young people the conditions have proved impossible to keep, with the result that they go to prison for breaching their ASBO, for offences which would not be imprisonable in a criminal court. Between 1999 and 2003, 42 per cent of all ASBOs were breached, with 55 per cent resulting in custody (Chakrabarti 2006). Although they have brought relief to some hard-pressed neighbourhoods, there are worrying stories of youngsters with ADHD who are given ASBOs they are unable to keep because of their condition, before medical treatment can be sorted out. Moreover, whereas juveniles who commit crimes are not allowed to be named in public, there is no such bar for ASBOs (because of their civil status), and some local authorities produce posters with names and photographs to be delivered to all residents in certain districts, resulting in ‘naming and shaming’ campaigns (Krudy and Stewart 2004; Panorama 2005).

In January 2006, provisions for anti-social behaviour were further strengthened, through the Respect Action Plan (Home Office 2006b), which outlined measures such as raising the level of penalty notices for disorder (which can be levied immediately), establishing new models for conditional cautioning which might include unpaid work to repair damage to the community, introducing new rules to streamline ASBOs, extending community justice approaches to anti-social behaviour (see Chapter 8) and reviewing ASBOs after a year to take account of changes in behaviour.

Non-punitive approaches to anti-social behaviour

Against this background, several local authorities have been developing a less punitive approach, based on Acceptable Behaviour Contracts (ABCs). These were first pioneered...
in 1999 by Islington Council Housing Department and Islington Borough Police, to
tackle problems on estates and on the street. Between 2000 and 2004, over 400 ABCs
were completed. Many other local authorities followed suit and, by 2002, 173 contract
schemes were in existence (Dunn 2004).

ABCs are voluntary written contracts between a person who has been involved in
unacceptable behaviour and one or more local agencies, whose role is to prevent such
behaviour (e.g. police and housing). They are used mainly with young people, and their
parents are also involved. Parental Control Agreements (PCAs) may also run alongside
the ABCs. The contract will specify the behaviours that the person has been involved in,
and which they agree not to continue. Where possible, the individual should be
involved in drawing up the contract, which lasts for six months, a more feasible length of
time for a young person. Breach of an ABC can lead to an ASBO or possession order (if
the young person is in social housing) (Home Office 2002). But very few ABCs are
breached, because they involve the young person in drawing up the contract. It is esti-
mated that an ABC costs one twentieth of the cost of an ASBO.

Restorative justice practitioners have taken the process a step further. They have
used restorative processes to resolve issues or to arrive at ABCs. Several different
schemes have been set up, such as the ones described below.

Thames Valley Mending Fences project: Community mediation
The main idea of the Thames Valley Mending Fences project, which ran from 2002 to
2005, was to develop a comprehensive approach to anti-social behaviour involving pre-
ventative and problem-solving strategies which empowered local people. A key aim was
to help increase the contribution of community mediation to resolving anti-social
behaviour, so it involved five local community mediation services. The project con-
cluded that mediation could help a great deal, and that the infrastructure of community
mediation services needed to be strengthened and more sustainably resourced to take on
this role (Thames Valley Partnership 2005).

Case studies: Restorative approaches
to anti-social behaviour

- A recently widowed elderly woman reported problems with a neighbour whose
  children made a considerable noise both day and night. She felt too vulnerable to
  approach them herself. The mediators visited the family, who were unaware that
  their noise was a problem, but were sympathetic to their neighbour’s distress.
  They had never actually met her. When the mediators brought them all together
  in a joint meeting to discuss the problem, an agreement was reached – and a rela-
  tionship begun.

- In an anti-social behaviour case, residents contacted police, housing, community
  safety and environmental health to get a woman evicted for being unable to
  control her visitors. The agencies felt she needed support rather than punish-
  ment. Mediators brought together the woman, the agencies and a representative
  of the residents, and an Acceptable Behaviour Contract was drawn up. Through
the mediation, everyone was more able to appreciate other people’s points of view, resulting in a willingness to make things work.

The project also included two specific projects on using mediation in cases of racial tension.

**Case study: Asylum seekers and mobile phones**

A group of young asylum seekers from the same country had begun to gather at the end of a particular street to exchange news, and to phone home on their mobile phones. Because of the time difference, this was quite late at night, and residents were disturbed by the noise and number of people. Mediators negotiated between the asylum seekers and representatives of the residents and they became aware of each other’s concerns, and reached a solution acceptable to all.

**New Forest and Southampton Mediation: Mediation-based assessment**

New Forest and Southampton Mediation has a contract to supply a mediation assessment service to Southampton City Council for all cases of anti-social behaviour. The main aims are to:

- seek to identify the most appropriate response to any reported case of anti-social behaviour or neighbourhood nuisance
- seek informal resolutions to disputes
- seek to promote the use of mediation/conflict resolution.

An assessment officer from the mediation service visits all parties concerned in their own homes, and listens to all sides impartially – how they feel and what they would like to see happen – as in mediation. Although a mediation meeting is offered, it is more usual for informal agreements to be brokered through the visits. The assessment officer acts as a bridge, helping to raise mutual awareness, improve communication and develop options and practical strategies. The service handles 600 cases per year, and success is measured by absence of re-referred complaints during the subsequent six months – in 2005 this was 85–92 per cent.

**Case study: Assessment and indirect mediation – kids running wild**

Party 1 complained that Party 2’s three children (boys aged 15, 14 and 12) were completely out of control and running wild – abusing and harassing residents, calling names, throwing stones at Party 1’s car, smashing Party 1’s kitchen window and car windscreen, and throwing slabs of pavement at Party 1’s children, causing a leg injury. Party 1 had shouted at the boys, and a row with Party 2 had erupted in the street. The police had been called on many occasions, and told Party 1 that they were on the verge of taking out ASBOs on all three boys. When the assessment officer asked about the relationship with
Party 2, Party 1 said they used to get on all right until recently, when Party 2’s marriage had broken up.

Party 2 complained that it was always her children who were blamed, and that other local children were also involved. She was very worried about the possible impending ASBOs, and was at her wits’ end. Since the marriage breakdown she had been suffering from depression and the boys had gone off the rails. Two of them had been excluded from school. Party 2 just wanted a ‘normal family life’ and admitted the boys were out of control, and that she realised for the first time that she needed help.

The case was passed back to the council to refer Party 2 to a family support service for a support package, also involving other agencies in the case. Improvement was swift and the ASBOs were ‘stayed’. Communication resumed tentatively between the neighbours. Although she was initially defensive, when Party 2 realised she was being listened to rather than told off, she developed the confidence to look at the situation constructively and identify the support she needed.

(New Forest and Southampton Mediation 2006)

Manchester Youth Justice Trust: Family Group Meetings

The Family Group Meetings project received referrals from nine Youth Offending Teams in the Manchester area, for criminal offences (see Chapter 4). They also used the approach with anti-social behaviour cases in Rochdale. The FGM project included the offender and his or her family and the victim, as well as other agencies involved. All attended voluntarily, and were prepared for the meeting. After everyone had told their side of the story, the family had ‘private time’ to make a plan taking everyone’s needs into consideration. The plan was then brought back to check that it was acceptable to all. The result could be an ABC, but often such a formal agreement was not seen as necessary and a simple agreement was made. Because everyone participated and agreed voluntarily, such agreements stood a better chance of being kept (Mercer 2005).

Case study: Family Group Meeting – football damage

In the Rochdale project, there was a problem with two teenage boys playing football in the street and damaging several gardens – flowers broken or squashed, fences broken, and so on. When the housing officer visited, the residents showed him 36 pictures of damage. However, the boys concerned did not see themselves as anti-social, as they did not regard the damage they had done as serious.

The mediators from the Family Group Meetings project engaged with them and asked for their views on how they could address the harm and act differently in the situation. They brought together (after preparation) three neighbours whose gardens had been damaged with the two young people and their families. One of the neighbours was

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1 This project closed in March 2006 for lack of funding.
a widow whose husband had been a football coach, so she was positive about the young people playing football. She wanted to communicate with them and explain why her garden was so important to her.

The FGM was held in the morning and the mediators provided breakfast to ‘oil the wheels’. After everyone had explained their concerns, the families had some private time to work on an ABC. The meeting finished with reflections on what makes a good neighbour. Everyone felt that communication had been restored, so that any future problems could be solved more easily.

Community mediation services

In several other areas, cases are referred to the local community mediation service to prevent the imposition of an ASBO. The case below concerns adults.

**Case study: Adult ASBO avoided through mediation**

This case was referred to Bolton and Salford Mediation from the anti-social behaviour officer at the City of Salford Council. A judge at an ASBO hearing had requested that mediation be tried before imposing an ASBO.

The case involved an elderly woman and two single men, all living alone in three flats. Mr Kay lived in the flat between Mrs Hartlypool and Mr Johnson, who both felt that Mr Kay was making far too much noise, mainly from moving furniture round. Mr Kay was threatened with an ASBO. Before the ASBO hearing, an attempt had been made to mediate between the parties, but this had failed. All three parties agreed to try mediation again.

The mediators visited each party and listened to their problems and explored what they would like to happen next. They all wanted to reach an agreement, especially Mr Kay, who was feeling stressed about the ASBO and that he was being victimised. At the joint meeting, each party was given uninterrupted time to talk about the problem from their point of view and to state the problems they would like to be resolved. The mediators listened and then summarised each person’s needs.

An agreement was reached covering communication and noise. The parties agreed to communicate directly in the future and exchanged phone numbers. They also agreed to keep noise levels to a reasonable level after a set time in the evening. All parties were happy with and signed the agreement. They expressed thanks for the help of mediation to solve their problem. All was well in the follow-up one month later, and there was no need for the imposition of an ASBO.

**SCOTLAND**

This section covers restorative justice with young offenders in Scotland. Restorative justice with adult offenders in Scotland is dealt with in Chapter 8. The age of criminal responsibility in Scotland is eight (as opposed to ten in England, Wales and Northern Ireland), so provisions for young people cover the age range 8–17.
The Scottish Children’s Hearing system has already been described in Chapter 3. It has provided much of the informality and dialogue which is one of the attributes of restorative justice – but without involving victims. However, over the last few years restorative justice services have been developed to fit in with the Children’s Hearing system, and are now operating in 31 out of 32 local authorities in Scotland. A Restorative Justice Census was carried out in 2006, giving details of all of these. They are run by a variety of agencies, including Sacro (Safeguarding Communities – Reducing Offending) and other voluntary organisations, as well as several local authority social work departments (Sacro 2006). For instance, Glasgow’s Restorative Justice Service was set up in 2003, and during its first year of operation received 1409 referrals from the Scottish Children’s Reporter Administration (SCRA) (Dutton and Whyte 2006).

Restorative processes used include restorative conferences, face-to-face meetings, shuttle mediation and victim awareness (Sacro 2006). Cases are referred to local restorative justice services by the Children’s Reporters, where they think a restorative approach should be offered to the victim, or could help offenders to realise the harm they had caused. This can take place at any stage:

- as a diversion from a Children’s Hearing, when restorative justice is the actual disposal
- before a Children’s Hearing
- referred by a Children’s Hearing.

In the last two situations, the Reporter requests a report from the restorative justice services, to be taken into account at the Children’s Hearing (Scottish Executive 2005).

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**Case study: Scotland – burglary leads to conference**

*This case study was contributed by the victim, a young male journalist writing in a personal capacity.*

I didn’t expect to make Robbie and his mum cry. It felt uncomfortable, but did also give a sense of satisfaction – just because it felt as if I’d got the message across. I think this is part of the power of restorative conferencing – you can really feel that you’ve passed on a sense of the impact petty crime has on the victims direct to the perpetrator, rather than bottling it up or ranting to people who agree with you anyway.

Thirteen-year-old Robbie had been involved in breaking into my late grandfather’s house – but only very peripherally. In fact he hadn’t been involved in the break-in itself at all. Others his age had done that, entering through the French windows and exploring the house, moving furniture in an apparent search for valuables and sitting and smoking in my grandpa’s bedroom. Unable to find much of value, they ransacked his wine cellar and spirits cupboard – which were well stocked.

Robbie’s only involvement had been to get drunk with this gang, half a mile away in the woods, on the proceeds of the burglary. The police and his mother insisted he was essentially a good lad led astray and that seemed a fair assessment to me.
My experience of the conference system was fine. The police officer who handled the conference in the local police station, not far from my grandfather’s home, made all of us feel comfortable and free to express ourselves. I spoke to Robbie and his mum about the ransacking of my dead relative’s house and the sense of violation, and the fact that it was something of an insult to his memory, as my grandpa had dedicated his life to working with problem youths.

The process was very effective in that Robbie will think hard before getting involved in anything similar again, and it was cathartic for me and my family. My only real problem with the process is that he wasn’t the main offender, and the young burglars themselves were deemed to need ‘more serious’ sanctions, or to be unlikely to benefit from the process, or both. I’d like to have tried anyway, perhaps in tandem with other sanctions.

Case study: Scotland – shoplifting and damage

John (aged 15) was charged with shoplifting for the third time. Previously he had taken things from large stores, but this time it was from a small business. Up to now John couldn’t see the problem. The shops were so large. They wouldn’t even notice what he had taken. This time it was different.

Ken and Sarah had started up their own business only recently. They had a large loan, and were just starting to make a decent profit. John had come into the shop on a Saturday morning. Sarah had noticed that he was edgy and nervous. Before she could say anything, he had whipped a glass figurine off the shelf and run out of the shop. Sarah rushed out and chased him down the street, shouting at him to stop. John panicked. Scrambling over a wall to escape, he let go of the figurine. It smashed into pieces on the pavement. When Sarah caught up, she stood over the broken glass, shaking.

Using witness statements, the police eventually identified the person responsible. John was charged, and a referral was made to the Children’s Reporter. The Reporter examined the police report and the background information about John. He decided that a restorative justice approach might make an impact on John this time. There were real people involved, not just an impersonal ‘superstore’. It was also clear to the Reporter that Ken and Sarah might have been badly affected by their experience. Restorative justice could be something that would meet their needs as well. So the Reporter referred the case to the local restorative justice service.

The facilitator met with all the parties to explain their options. They all agreed to participate in a conference, including John’s parents. The facilitator then spent several sessions with each party, helping them to prepare for the meeting.

They met in a quiet room in a local community centre. The chairs were arranged in an open circle. John sat with his parents on one side of the circle, while Ken and Sarah were on the other side. The facilitator sat at one end of the circle, with a co-facilitator at the other end.

The conference began with the facilitator welcoming the group and asking everyone to introduce themselves and explain briefly why they were at the meeting. He went over the ground rules for the meeting, and reminded the group that everything said in the meeting would be confidential.
The facilitator asked John to begin by explaining what happened and why. John’s head was down. His shoulders were hunched over. Slowly, hesitantly, he told his story. Ken and Sarah were relieved to hear that John had not targeted their shop, that it was an on-the-spot decision.

The facilitator asked Ken and Sarah if they would like to say something about how the offence had affected them. Sarah spoke about how helpless and frightened she had felt, and Ken talked about how they had become suspicious of any young person in the shop afterwards. John said he had no idea how much they had been affected. He apologised and said he wanted to put it right if he could. John’s parents spoke about their upset and disappointment with John.

The facilitator asked Ken and Sarah if there was anything that John could do to repair the harm. Ken said that, if John and his parents felt it was okay, they would be happy for John to work at the shop for four Saturdays. They would pay John for his work. The first two Saturdays would pay off the full cost of the figurine, and he could keep the money for the next two Saturdays. They wouldn’t tell anyone why he was there, and he would be treated with respect – like any other employee. They would give him a reference at the end. They wanted to give John a constructive experience of what it was like to be ‘on the other side of the counter’. The family took five minutes to talk it over in private, and agreed with the plan. They thanked Ken and Sarah for offering John this chance. The facilitator closed the conference and they all moved to another part of the room to have refreshments.

John completed his four Saturdays. Ken and Sarah felt that their loss was restored. They were so pleased with John’s work that they offered him a job at the shop. John couldn’t accept, because he was starting college. But he did get a good reference from Ken and Sarah.

(Scottish Restorative Justice Consultancy and Training Service 2005)

NORTHERN IRELAND

The picture in Northern Ireland is complex, with many organisations interested or involved in restorative justice. Following the ceasefires (after the Troubles) in 1994, considerable interest developed in restorative justice as an alternative way of dealing with anti-social behaviour, instead of the punishment beatings delivered by paramilitary groups (Auld et al. 1997). Around the same time community activists were also considering restorative justice. A conference was organised in late 1994 by the Ulster Quaker Service Committee (UQSC) to learn about restorative justice and to consider possibilities for restorative justice in the Northern Ireland criminal justice system. Another conference was organised by UQSC in 2004, entitled ‘Restorative Justice: Opportunities and Challenges for the Next Decade’.

Two separate groups grew up, Alternatives within the Loyalist community and Community Restorative Justice Ireland within the Republican community, both providing a restorative justice service to their respective communities. Alternatives cooperated with the police but Community Restorative Justice Ireland did not recognise the police as legitimate, so had nothing to do with them.
Alternatives

Greater Shankill Alternatives emerged out of a piece of community action research in 1996 into alternatives to paramilitary punishment beatings and shootings and became the first indigenous, community-based restorative justice project in Northern Ireland. The Shankill community quickly experienced a dramatic decrease in levels of paramilitary attacks on young people and, as a result of its success, an umbrella organisation, Northern Ireland Alternatives, was established in 2000 to develop into other working-class areas – working solely with anti-social behaviour and low-level crimes.

Cases are referred to Alternatives from different sources – local residents, local paramilitaries, social services, probation, police, churches, schools and families – and there are also self-referrals. The scheme has no age limit but works largely with young people aged 13–25. The project is a registered charity with private and charitable funding mostly from North America. A project evaluation by Professor Harry Mika of Central Michigan University of the first three years showed that 76 per cent of cases involved meetings with victims (Alternatives 2004; Watters 1999, 2004). Further evaluation has also been undertaken.

Alternatives has several programmes to create and support safer communities: intensive youth support, youth prevention, victim support, neighbourhood mediation; and training in mediation, restorative justice and conflict transformation, with the principles of restorative justice underpinning all the work.

The intensive youth support programme focuses on helping offenders take responsibility for the hurt they have caused to their victims, their community and themselves and their family. This programme can last anywhere from 6 to 16 months depending on the needs of the young person and their victims. The process often involves a face-to-face meeting with the victim, an apology, reparation and volunteer work within the local community.

The victim support programme offers victims an opportunity to discuss their experience or vent their emotions to a sympathetic ear, and the possibility of mediation and reparation. Victim support staff and trained volunteers visit victims in their own homes, to provide practical help to make their homes less vulnerable to crime. All staff and volunteers are local people who share the experiences and concerns of those they serve.

Alternatives sees itself as part of the peace process, in particular through its work of:

- helping to change the culture of violence by providing alternatives to paramilitary punishment attacks
- diverting young people from joining paramilitary organisations or engaging in crime and anti-social behaviour
- training several hundred volunteers in restorative justice and mediation
- providing a place for local residents to come for help as an alternative to approaching paramilitary organisations
- building bridges between the police, the formal criminal justice system and local communities.
Case study: Alternatives – mediation and reparation for burglary

David, aged 16, lived in the Greater Shankill area. He started using drugs at the age of 12, and soon had to steal to maintain his habit. He had been beaten by paramilitaries already, had his arm broken and been shot, but these did not change his behaviour. When he burgled a house, paramilitaries told him to leave the country by 9 p.m. that night, but he had nowhere to go. At this point Alternatives intervened and negotiated with the paramilitaries to allow David to stay, with a programme of work with Alternatives. Over the next six months David received counselling to address his problems (his father had died when he was four; he had been sexually abused by an uncle), and did a lot of victim awareness work, leading to a meeting with Peter, the victim of the burglary. He then paid back £350 over several months and did 50 hours of community work removing graffiti. In time he obtained a part-time job, moved to independent accommodation, and started helping other young people on the Alternatives programme. Meanwhile the former victim, Peter, became involved as a volunteer mediator, helping other victims.

(Watters 2004)

Community Restorative Justice Ireland

The Republican community-based project Community Restorative Justice Ireland (CRJI) also started in 1998, with pilot projects in four areas, three in Belfast and one in Derry. These projects took 130–140 referrals in their first year, and, like Alternatives, were evaluated by Harry Mika of Michigan University (results so far unpublished). Funding has come from private sources, mostly from North America. The project contacts offenders who become known to them through their community networks, or takes referrals direct from the community. There are about 15–20 programmes in Republican areas of Northern Ireland, but no plans to work with the police, whom they have always regarded as illegitimate. Their initial aim was to deal with incidents in a non-violent way in order to cut down the number of punishment beatings by paramilitary groups (Auld 1999). The programmes have developed to consider many types of conflict within the communities. They work with young people and adults.

At the 2004 conference mentioned above, there was a coming together of all the restorative justice initiatives, and the presentation on CRJI emphasised the need to depoliticise restorative justice and develop a restorative philosophy underpinning Northern Ireland society. Their speaker outlined areas of cooperation, such as interventions designed to keep offenders out of the criminal justice system, and noted challenges, such as their relationship to the criminal justice system (Maguire 2004).

2 For various reasons it proved impossible to contact CRJI to check/update this piece.
Northern Ireland Youth Conference Service

Established by the Justice (NI) Act 2002, the Youth Conference Service (part of the Youth Justice Agency) receives referrals through the Youth Courts and the Public Prosecution Service. So far Youth Conferencing is available in Belfast and three other areas, with the aim of complete coverage by mid-2007. It gives an opportunity for young people who offend to make right the harm caused to victims. It also gives victims an opportunity to have a say in what the young person should do to show remorse and commitment towards redressing the harm.

A conference is convened by a Youth Conference coordinator, and a police youth diversion officer attends. The young person, family, victim and others meet together to discuss the harm caused by the offence and to work out a conference plan to include the steps the young person can take towards repairing the harm. This will usually involve some act of reparation, and the young person may also be required to undertake a programme to address their offending behaviour, such as anger management, victim awareness, peer influence, substance abuse, family support, etc. These programmes are delivered by a wide range of statutory, voluntary and community groups and agencies. The emphasis is on developing community-based programmes so that the young person is undertaking their reparation and offending behaviour commitments within their own community as much as possible.

When the conference plan has been approved by the Youth Court or the Public Prosecution Service, the coordinator monitors how the young person’s commitments are kept. The coordinator works jointly with others who help deliver the programme; they arrange regular reviews involving the young person, their family, and relevant others. In these meetings progress is assessed, problems are addressed and any necessary steps taken to assist successful completion of the Community Services Programme and the conference plan (Byrne and McAllister 2005). The victim participation rate is very high – 69 per cent, which is much higher than that for most of England and Wales (Campbell et al. 2005).

So far the Youth Conference Service is only available for young people, but in the Criminal Justice Review Implementation Plan (Criminal Justice System Northern Ireland 2003) it was envisaged that it would be rolled out to adults, especially young adults aged 18–21.

Case study: Northern Ireland Youth Conference Service – burglary of house

Patrick (aged 15) was arrested for the burglary of a house, in which he stole a silver necklace. His mother had died when he was eight, and his father was not around, so he was brought up by his grandparents, with some help from an aunt and uncle. He had been asked to leave his uncle’s house for bad behaviour and was wandering the streets, feeling very low and angry, not caring about himself or anyone else.
The victims were an elderly woman of 80 and her daughter of 45. They were both very upset and the older woman was frightened to go out. They were initially reluctant to come to a conference, but after discussing it with the Youth Conference Service coordinator, and seeing the DVD of a conference (which staff take to show victims and offenders when they visit), they agreed to come.

Patrick agreed readily at first, then backed out at the last minute from nerves, preferring to go to court instead. The victims were very disappointed. Then the court gave Patrick another chance, and he agreed to meet his victims. His uncle came with him and Patrick listened to the victims talk about their distress. They told him the necklace had sentimental value as it had been given to the older woman by one of her daughters. They asked Patrick if he could get it back for them. He had to admit that he had sold it. He said, ‘I’m never going to do that burglary rubbish again, it hurts too many people.’ The agreement included ten hours’ work (helping younger children in an after-school session), completing his GCSEs at school, having a school mentor for six months, and some family work. It was the victims’ wish that he should only do ten hours’ work, as they wanted him to get back to his school work and not be distracted from it. The court approved the agreement.

The victims received information they would otherwise not have done, and knew they were being told the truth. The young person matured through the process, and staff in the children’s home (where he had been accommodated) saw a big change in his attitude.

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The future for restorative justice in Northern Ireland

The central place of the Youth Conference Service in the youth justice system places Northern Ireland with New Zealand as one of the few countries with a truly restorative justice system (as opposed to a system where restorative processes are diversions from or ‘additional extras’ alongside the main system). The service is expected to cover the whole of Northern Ireland by mid-2007.

Now that there is a formal state restorative justice process, there are question marks over the future of the community-based restorative justice schemes. Most people agree that there is a place for the community-based schemes for low-level crime and anti-social behaviour which would not come within the remit of the Youth Conference Service. But the community-based schemes have been highly politicised, and the government has so far refused to fund them.

In December 2005 the Northern Ireland Office issued draft guidelines designed to regulate the relationship between the community-based programmes and the formal criminal justice system. Future funding will depend on compliance with the agreed guidelines, which include the expectation that all community-based restorative justice schemes will work in cooperation with the police (Northern Ireland Office 2005). The consultation period finished at the end of February 2006, so at the time of writing the outcome and future policy were not yet decided.
Summary
This chapter has covered the provisions of the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999, and the opportunities they have opened up for restorative justice with young offenders and their victims, although not all Youth Offending Teams place their resources in this work. Several descriptions of local arrangements have been included, covering Youth Offending Teams and independent mediation services. Restorative initiatives for looked-after children in residential units are trying to alleviate the over-criminalisation of these children. The use of restorative processes with anti-social behaviour shows the positive contribution they can make. Developments in Scotland and Northern Ireland have been covered separately, as they have different legal provisions.

References

England and Wales

Anti-social behaviour


Scotland


Northern Ireland


CHAPTER 8

Restorative Justice with Victims and Adult Offenders in the UK

Introduction

There is an idea that adult offenders are ‘too far gone’ to try anything restorative, but in my experience restorative justice is just as relevant to adult offenders as younger ones – everyone can change. And from a victim’s point of view, it should not depend on the age of the offender as to whether he or she is offered a service.

Although most countries have implemented restorative justice first and foremost for young offenders, and restorative justice with adult offenders is seen as a new departure, for many years in the UK there was actually more victim–offender mediation taking place involving adult offenders. Research on these schemes showed high levels of satisfaction for both offenders and victims, including victims of serious crimes (see Chapter 14). Whereas Chapter 2 looked at the history of these mediation services, this chapter focuses more on their practice. It also looks at adult offenders in the community. Serious offences, where offenders are sent to prison, are dealt with in Chapter 9, except for one case described in this chapter.

This chapter starts with the historical probation-led mediation services, then moves on to the ‘patchwork’ of current schemes, many of them separate new initiatives – often based on the renewed interest in restorative justice work with adults after the success with young people.

Probation-led mediation services 1983–2002

Over the years there have been several probation officers who have arranged mediation between their clients and their victims on an individual basis, where the need arose.

The first victim–offender mediation service in the UK was South Yorkshire Victim–Offender Mediation Project, run by South Yorkshire Probation Service, which started in 1983. This set out to explore the possibility of mediation during the preparation of social inquiry reports (now called pre-sentence reports).
Case study: Theft from a shop

A man of 32 got drunk and broke a window of a DIY shop near his home. He stole a few small screwdrivers. After this offence, he and his wife were afraid to show their faces in the shop. They had three children, were on benefits and had many money worries. The man was helped to make an informal apology to the shop owner. The court report then recommended probation.

The Home Office took a great interest in the growing number of victim–offender mediation schemes in the early 1980s, as described in Chapter 2. They funded and researched four victim–offender mediation services between 1985 and 1987 (Marshall and Merry 1990). Three of these were for adult offenders, two based on Magistrates’ Courts (Coventry and Wolverhampton) and one based on a Crown Court (Leeds). No additional legislation was needed for these schemes to operate.

The possibility of mediation was explored before conviction (if an offender intended to plead guilty), or between conviction and sentencing, alongside the court report. This means that it could affect the sentence, such as making a Compensation Order that reflected the outcome of a mediation session. Care was taken to ensure that offenders were not promised a lighter sentence and that it was not seen as a ‘let-off’.

Nevertheless, research showed a bias towards offender-centred practice. The services therefore altered their practice to be more ‘victim-friendly’, with the result that victims, offenders and courts expressed high degrees of satisfaction. When the government funding finished, the local probation services took over and the schemes expanded to become county-wide in West Midlands and West Yorkshire. They mostly used non-probation-officer staff for mediation, and they were recruited from other suitable professions.

Another county-wide initiative was Northamptonshire Adult Reparation Bureau, which started in 1987 (Northamptonshire Adult Reparation Bureau 1989), a multi-agency initiative (including probation) aimed at diverting adult offenders from the court system while also providing something for victims. It used professional staff seconded in from the different agencies (Probation, Social Services, police, etc.) and trained in mediation.

The practices of these early services are illustrated by the following case studies. The multi-agency service worked pre-court, the two probation ones at court or post-court.

Case study: Diverting offenders from court – violent disturbances

Two men aged 23 and 30 were reported following disturbances in the town centre. One of them ran a restaurant and struck out at a small group of young adults, one of whom responded by throwing a brick at the restaurant window. During interviews it became clear that these incidents arose from a mixture of fear, anger, mistaken identity and com-
munication difficulties. Both parties had taken the law into their own hands, but both wished to meet to discuss the incidents and repair the damage.

A long mediation meeting enabled the parties to listen to each other and adopt more appropriate strategies for resolving conflict in the future. This included contacting the police at the outset rather than taking matters into their own hands. The meeting concluded with them both feeling that they had had their say, an acceptance that they were both at fault and a promise that there would be no residual feeling of animosity. An agreement was made for compensation for the damaged window, and they were all given a formal caution. The payments were made regularly until the damage had been paid for.

Case study: Shop burglary with unforeseen effects

Len’s wife had just given birth to their first child, and he was on his way back from the hospital when he met a mate, Will. They decided to go for a drink to celebrate. Later that night they climbed through a flat roof into a TV shop and stole a few items, including a TV. They accidentally cut a computer cable in the process. They were soon traced and arrested. They were referred to the mediation and reparation service at the PSR (pre-sentence report) stage, and agreed to talk to the victim if she wanted to meet them.

The victim, Marie, was a middle-aged woman with a disabled husband, and therefore the main breadwinner. She was employed by a TV shop chain to be in charge of the shop and two young assistants. Because the computer cable had been cut, the shop had been closed and she had nearly lost her job, and was still ‘on probation’ for future employment. She wanted the chance to tell the two young men about this.

They met in the evening at the mediation service office. Marie told Len and Will what she thought of them and the trouble they had caused – they were horrified to find out the effect of their actions. Marie also had words to say about Len’s irresponsibility towards his wife and child. They wanted to make amends but there was little they could do. However, Marie said her biggest reward would be to know that both men had sorted themselves out and got proper jobs.

By the time they came to court three weeks later, both men had jobs. They were given a Community Service Order to work at an elderly persons home – at weekends, so that it did not interfere with their jobs. The victim was pleased to hear this.

Nine years later the mediator happened to bump into Len. ‘I just want you to know that I’ve thought a lot about that woman. I haven’t been in any trouble since, and I’m a shop manager now myself. I now realise what it means, as I take a pride in my shop.’

Case study: Aggravated burglary leading to nightmares

This case study shows how the probation victim–offender service worked with one case post-court and post-release:

A woman and her eight-year-old son were the victims of an aggravated burglary, in which they were terrorised by the burglar, who received a prison sentence. The boy’s night-
mares persisted and, as the time drew near for the burglar to be released, the woman became apprehensive that the burglar would return. She approached her local Advice Centre, which referred her to the local mediation and reparation service. The mediators visited the offender (just released), who was upset to hear how worried his victim still was. A meeting was arranged at the Advice Centre, at which the offender apologised in full and reassured the victim he had no intention of returning to cause harm. The victim accepted the apology and reassurance, and found the meeting helpful. The son’s nightmares stopped soon after.

The decline of restorative justice work with adult offenders

When the Labour government introduced the changes in the youth justice system, leading to the spread of restorative justice initiatives, this had the side-effect of ending most restorative justice work with adults. Work with young people was funded by the government through the Youth Offending Teams, whereas there was no identified funding for restorative justice work with adult offenders. The West Yorkshire Probation Victim–Offender Unit continued the longest but stopped taking adult mediation cases in 2002. In an increasingly target-driven culture in the criminal justice system, any work without a target is difficult to resource. However, if resources become available, probation-led work could thrive once more.

Nevertheless, some work has continued (see below) and some recent changes in legislation have brought new opportunities.

Victim–offender groups

Victim–offender groups are groups in which victims of crime and offenders meet, usually for a set number of sessions, where the victims have suffered similar crimes (but not the actual crimes) to those perpetrated by the offenders. They have been described in Chapter 4, which included a case study from one of the probation services which undertook such a group in the community in the mid/late 1980s (pp.100–1). (A case study for young offenders in custody can be found in Chapter 9, pp.215–16.) These groups received favourable feedback but did not last, as they relied on the enthusiasm of a few probation officers.

Several victim–offender groups, for adults and for young people, have been run in prisons – these are described in Chapter 9, pp.215–18.

Community/independent mediation services

As mentioned in Chapter 2, the growth of community mediation services far outstripped the growth of victim–offender work during the 1990s. However, as their community mediation work became established, many of them widened their brief to include work in schools and in the criminal justice system. Among those who have done this are community mediation services in Bolton and Salford, Bristol, Kent Mediation (several services), Leicestershire, Middlesbrough, North Tyneside, Plymouth, Sandwell,
Somerset, Tower Hamlets, Walsall and others. Most of these have worked with young offenders but some also with adults (Liebmann 2004).

Community mediation services are not part of the criminal justice system, so they have contracts with Youth Offending Teams and/or with Probation Services for adults, sometimes with Probation Victim Liaison Units. Then referrals of appropriate cases are made to the mediation service. Referrals may also come from other agencies if resources are there to support them.

A few independent mediation services also started, of which REMEDI (South Yorkshire) and Connect (London) were included in the government research project in 2001 (see later section in this chapter). REMEDI (Restorative Justice and Mediation Initiatives), established in 1996, is the only independent specialist victim–offender mediation service to survive. It has branches in Sheffield, Barnsley, Doncaster and Rotherham. It works with victims and their offenders, whether they are adults or young people.

The following three cases were referred from probation to mediation services in Kent. The first one is a mixture of indirect mediation (young people) and direct mediation (adults); the other two used indirect mediation as it was the best process for the people in the situation.

**Case study: Indirect and direct mediation – arson**

This case involved two boys aged 14 whose families were best friends and who lived two doors from each other. As a prank, one of them set fire to the car belonging to the other boy’s mother and the fire spread to her garage and garden – a nasty incident and it was fortunate that no one was hurt. She badly missed her friend (the mother of the offender) as they were avoiding each other in the street. A personal letter of apology was written, and this was delivered by mediators at a face-to-face meeting between the families, excluding the boys, who participated in shuttle mediation. Although this was a somewhat different process from the usual form of mediation, the mediators used both indirect and direct processes as a lot of people were upset (e.g. aunts, friends). It was extremely successful and when the mediators checked to see how things were going, they found that normal relations had been restored and the families were even looking after each other’s dogs once again! This was an unusual first offence and the young person involved was genuinely remorseful and unlikely to re-offend.

**Case study: Indirect mediation – burglary by friend**

This case was referred to the local mediation service by probation after a 28-year-old man had been given a probation order for a burglary. He had mild learning difficulties and lived with his sister. Both parents had died and he relied heavily on his sister for support.

The victim was an old lady who had been his teacher at primary school. She had befriended him over the years, giving him small handouts and talking to him, also allowing him to do odd jobs for her in the garden. On the night of the burglary she was in bed and heard noises in the house. She hid under the bedclothes, terrified. In the morning
she found the patio doors broken and an antique clock missing. When the police arrested the offender, she was shocked to find out that it was the man she had befriended.

The mediators went to see both parties separately. The offender said he did not know why he had done the burglary. He had hidden the clock in his sister’s house. He wanted the old lady to know that he was sorry but was too ashamed to meet her. The mediators told him how frightened she had been, and he was very upset to hear this. The mediators helped him to write a letter of apology, which the victim was pleased to accept.

Case study: Indirect mediation – bank fraud

Ben was given a Community Punishment and Rehabilitation Order after being convicted of theft from a bank while employed there. Over a period of time he had transferred money to his account from the bank accounts of various customers, as the bank’s money reconciliation processes were not very strict – £150 was allowed for discrepancies.

Ben was very sorry for the theft and had written a letter of apology to the bank, and was troubled that he did not receive a reply. The mediator helped him to talk about his feelings, and then contacted the bank. At first it was difficult to find a member of staff with the time to spend on mediation, but eventually the manager agreed, as Ben’s sacking and arrest had caused considerable shock and distress at the bank (he had been well liked there), and his aunt still worked there. There was also a climate of fear after Ben’s arrest and conviction.

Although no meeting took place, the mediators talked to the manager, and letters were written which incorporated the feelings of Ben, his aunt, the manager and the other bank staff. Ben apologised to the bank and his aunt, and the manager applauded Ben’s honesty in his letter and apologised that his letter had not been replied to. He wished Ben well for the future.

Rehabilitation and restorative justice

Rehabilitation and restorative justice can work together well for offenders on probation. The following case shows how drug rehabilitation, victim impact work and general support were needed before the offender was able to face the possibility of meeting one of his victims. At that point such a meeting proved to be beneficial to both sides. (One might say that all victims should ideally have had the chance to meet him, but resources made this unrealistic.)

Case study: Rehabilitation and mediation – shoplifter with drugs problem

A 25-year-old prolific adult offender had started using drugs heavily at the age of 21. By 24 he was actively shoplifting about 84 times per month and had accrued a significant record, including prison sentences. He was referred to PORT (Prolific Offending Reduction Team), a multi-agency project based in the local Probation Service. He initially had
great difficulty coming to terms with the programme and therapies offered (art therapy, drugs counselling and Victim Impact work) but the firm approach and flexibility helped him to stabilise his drug use. He completed the victim impact work (which initially he could not face), and then met one of his corporate victims. He apologised (in person and in writing) and signed an agreement which allowed him back in the shop on a probationary basis. He also provided the shop with a security report on how he committed offences and how others might do so, and they were very appreciative of this.

There is another similar case in Chapter 3 (p.68).

**Criminal Justice Act 2003**
The Criminal Justice Act 2003 was mentioned in Chapter 2; this chapter provides some examples of how the provisions for restorative justice can be implemented.

The Act aimed to reform sentencing and sets out five main purposes of sentencing:

- to punish offenders
- to protect the public
- to reduce crime
- to reform and rehabilitate offenders
- and to make reparation by offenders to those affected by their offences.

(Home Office 2006a, p.39)

The Act allows for reparation in the following provisions and sentences:

- **As part of a conditional caution**
  For less serious offences the Act allows for a caution with specific conditions attached to it. There must be sufficient evidence to charge a suspect, who must admit the offence. If the offender fails to comply, he or she will be prosecuted for the original offence. This measure has been piloted in six places, at two of which the pilots used restorative approaches.

- **As part of a deferred sentence**
  Offenders can be required to complete undertakings in the community as part of a deferred sentence, before coming back to court.

- **As a requirement in a community sentence**
  The Act creates a single community sentence under which all the options in the different community orders are available. It can include reparation.

- **As a requirement in three new sentences**
  The three new sentences are:
- Custody minus (suspended sentence order) – a short prison sentence of between 2 and 13 weeks that is suspended for up to two years while requirements in the community (set by the court) are undertaken. If the offender re-offends or breaches any of the requirements, the custodial term is activated and the sentence becomes one of ‘custody plus’.

- Custody plus – a prison sentence between 2 and 13 weeks, followed by at least six months served in the community on licence.

- Intermittent custody – this allows a prison sentence to be served intermittently. There is also a licence period to be served in between the periods of custody, and this period may have requirements set by the court.

(CJOnline 2003)

At the time of writing (August 2006), these provisions were in the process of being implemented, in stages. Some are being rolled out country-wide, some are being implemented in certain areas, others are on hold for the moment. There are also many other changes to sentencing unrelated to restorative justice.

However, apart from the pilot projects which were funded, no new funds are available to help develop these options, so it remains to be seen whether they will lead to a significant expansion of restorative justice for adult offenders and their victims. (In the long run restorative justice could save money through reduced offending¹ and reduced use of courts/prisons, but some funds are needed to set up services.)

Conditional Cautions

Below are two case studies from the Conditional Cautions pilot project in Thames Valley. In the first one the conditions were to repair the damage for the victim and to take action to prevent further offending; in the second one, a restorative conference was one of the conditions.

**Case study: Conditional Caution – criminal damage**

A young man got very drunk one night and jumped on to the roof of a neighbour’s car, causing about £1000-worth of damage. When the restorative justice worker visited the offender, he admitted that he had been getting drunk on a regular basis because he was so upset about his grandmother dying a few months previously. He was very remorseful about causing the damage to the neighbour’s car, as since this incident there had been a bad atmosphere in the road, which had always been a very friendly place to live.

The victim was happy for the offender, whom he knew quite well, to pay the insurance excess of £250 and write a letter of apology. It was also set as one of his conditions.

¹ See Chapter 14 on research.
to attend bereavement counselling, as he now saw his grandmother’s death as the root cause of his behaviour. Both parties were more than happy with the outcome of this incident.

The money was paid and the Conditional Caution successfully completed.

**Case study: Conditional Caution – assault and neighbour dispute**

Two offenders assaulted one victim, by pushing him to the floor, and stole his tobacco tin, which they threw into a field. The two families had been in dispute for several years and there had been false allegations of sexual abuse; verbal abuse was regularly heard between all members of the two families and dogs’ excrement was posted through each other’s doors. The police were in regular attendance regarding these incidents and a great deal of time was taken up attending and talking to both parties, with nothing really being resolved.

After the restorative justice worker had attended both the offender and victim and made an assessment, it was obvious there was a need to address the issues between the families. She suggested that a conference was held where both families could meet and talk about how they had been affected by the incidents and now the assault.

They reluctantly agreed and all attended. Afterwards, both families agreed it had been a very good way of resolving their differences that had been causing problems for a couple of years, and they were pleased that they had attended the meeting. They all said there would be no more trouble between them and, although they are not the best of friends, they agreed to acknowledge each other in the street in a friendly way. The incidents that the police regularly dealt with between these families stopped and did not reoccur.

The conditions were to attend a restorative justice conference and pay compensation for the tobacco tin. The Conditional Caution was successfully completed.

**Thames Valley Statutory Adult Restoration Service**

Thames Valley Statutory Adult Restoration Service was one of the pilot projects for developing restorative justice as a specified requirement, which can be part of a Community Order, a Suspended Sentence Order or a Deferred Sentence Order, alongside a Supervision Requirement. The writer of the pre-sentence report liaises with the restoration service to confirm that appropriate arrangements can be made. The programme involves taking part in four meetings:

1. An assessment meeting to explore the possibility of making amends.
2. A preparation meeting to prepare for the restorative intervention, which could be a meeting with the victim, or some other form of reparation.
3. The meeting with the victim, or other restorative intervention, which may involve an activity such as writing a letter of apology.
4. A review meeting with the offender manager (probation officer) and the restorative justice member of staff.

The offender may come to an additional voluntary agreement with the victim to further repair the harm in some way, but that is not a Requirement of the Order (Thames Valley Statutory Adult Restoration Service 2006).

**Case study: Restorative justice as a specified activity in a Community Order – assault on neighbour**

A female offender sentenced for assault was required to undertake restorative justice as a specified activity of her Community Order. The victim lived nearby and had become concerned for the offender’s safety during a domestic argument. He went over to her to ask if she was OK; she told him to mind his own business and attacked him with a claw hammer, hitting him several times on the head. He suffered from bruises, cuts and shock.

At the first meeting after sentence with the restorative justice facilitator the offender was remorseful, wanted to apologise to the victim and was concerned that the offence had left their relationship very strained and uncertain. They had been friends and were now trying to avoid each other, causing awkwardness and concern on both sides. The restorative justice facilitator encouraged her to think about the harm that had been caused and ways to make amends.

Following a visit to the victim, who agreed to attend, a restorative conference took place three weeks after sentence. The offender attended with her mother and support worker.

The conference began with the offender telling everyone what she had done, what she had been thinking at the time and who she thought had been affected. The victim talked about the effects of the offence on him: the shock at the time, especially as he had only been trying to help, and the anxiety he had felt since. The offender’s mother talked about her concerns for her daughter and how she wanted to support and help her overcome her problems. The offender explained to the victim how she had not meant to harm him, and apologised unreservedly. She now recognised that she had a problem controlling her anger and was determined to benefit from her imminent anger management course. Her support worker highlighted areas that she could work on with the offender. Both offender and victim agreed that they would put the offence behind them and their previously good relationship was restored.

A further meeting took place with the facilitator, the offender and her probation officer, at which she said how useful she had found the conference and that it had motivated her to address her problems. The victim was also contacted by the restorative justice team; he too had found the restorative justice process useful and reassuring.

Thames Valley Police also undertakes conferencing with adult offenders, principally in the delivery of police cautions and community conferences to resolve disputes.
Community Justice Centres

The first Community Justice Centre (CJC) was set up by the government in 2004 in North Liverpool, in a ‘regeneration area’ known for anti-social behaviour, gangs and vandalism. It is modelled on the Red Hook Project in New York. It combines a court with a range of community resources (e.g. legal advice on housing, debts and welfare benefits, help with drug or alcohol problems) available to local people, victims and witnesses as well as offenders. It has a single judge (Judge David Fletcher, appointed in October 2004) who hears all the cases (adult and youth). It focuses on local low-level crime, covering a small area of four local authority wards (Anfield, County, Everton and Kirkdale) with a population of 80,000, in order to be much more community-based than most courts, and is based in a refurbished former Catholic primary school. There are regular meetings with local residents.

The Community Justice Centre espouses many restorative values, such as a problem-solving approach and personal contact between the judge and the defendants. If appropriate the court can organise a multi-agency problem-solving meeting as soon as possible the same day, and takes back suggestions to the court later in the day for the judge to consider for sentence. The centre also tries to make sure that community needs are taken into account, so that any Unpaid Work (formerly Community Service Orders) can be directed towards meeting these needs; for example, cleaning up graffiti, decorating a local community centre.

In April 2006, a restorative justice coordinator was appointed, who has started organising awareness-raising days, leading to training for 16 restorative conferencing facilitators. Meetings between victims and offenders have started in the youth sector and the CJC is exploring the scope for more restorative work involving adult offenders and their victims. Partnerships with schools are also on the agenda.

Linked to the North Liverpool CJC is a second project, the Salford Community Justice Initiative, operating in an existing Magistrates’ Court. It focuses particularly on anti-social behaviour and cases which directly affect the community in the Eccles area of Salford; it started taking cases in November 2005 (Community Justice Centre, North Liverpool 2005a, 2005b, 2005c; Cook 2006; McIlveen 2006).

Community Justice Panels

The Chard and Ilminster Community Justice Panel was set up in 2003 in response to public concern at low police numbers and the closure of the local Magistrates’ Court. There was also a perception of Chard as a ‘hotbed of lawlessness’ that needed to be addressed. The local newspaper ran a campaign called ‘Bring Justice Home’, with the initial intention of getting the court re-opened. Local councillors explored the possibility of setting up a local panel to deal with low-level anti-social behaviour. After discussion with various agencies, agreement was reached and a steering group set up to take it forward.

The Home Office, the Government Office for the South West (GOSW) and Avon and Somerset Police provided the initial funds to develop the scheme, which started
operating in 2005. Funding was then extended until at least March 2007. This enabled a coordinator to be appointed, who set up the project and drew up protocols with partner agencies, which sit on the implementation group and also refer cases. These include the police, the Crown Prosecution Service, Probation, Victim Support, the Youth Offending Team, South Somerset District Council, local councillors, local action groups, housing providers, Somerset Race Equality Council and local residents.

Referrals so far have included offenders with no previous convictions or with some minor ones, with ages ranging from 22 to 67. Types of referrals have included low-level anti-social behaviour, public order offences, criminal damage and tenancy problems. The panel can accept referrals of any type of offence if the referring agency considers them suitable.

Attendance by offenders is voluntary and depends on them accepting responsibility for their actions. The referring agency informs the offender that a referral has been made and sets out the sanctions they will impose if the offender declines to attend. So far there have been no refusals.

The panel operates along restorative justice lines and attempts to bring resolution to problems by engaging both offenders and victims in the process. Trained volunteers sit with representatives from the referring agency. A script is provided for the chair to follow to ensure consistency at each panel. The 30 volunteers are drawn from all social groups, their ages ranging from 25 to 82. A variety of work backgrounds are represented and there is an equal number of men and women. Volunteers are trained in restorative justice processes and values, and working with victims, mock panels, the criminal justice system and perception exercises.

Other areas are thinking of following suit.

Case study: Community Justice Panel – aggressive driver

Three members of the local Speedwatch were carrying out their official duties on a country road. They had been operating the speed device for about an hour. They saw a car approaching and pointed the device at it. As the car went by, the driver appeared to be shouting something. He stopped his car a little further on and walked back to the volunteers. He was very aggressive and rude, so much so that the three volunteers were fearful for their safety. He eventually got back into his car and drove off again. The volunteers called the local police station and were interviewed. The offender was interviewed and admitted the offence. The file went to the Crown Prosecution Service, which suggested a Caution as the driver was of previous good character. The police discussed the case with the coordinator, as feelings were running high in the village where the incident occurred, and much division had been caused. It was decided to refer the case to the panel and the participants were all interviewed by the coordinator and all agreed to attend.

The panel sat and all three victims and the offender were able to express their views. It was clear that an apology would satisfy all parties. The offender expressed very eloquently the reason for his behaviour on that day, and gave details of his background that
shed some light on his reaction to having the speed device pointed at him. An Acceptable Behaviour Contract was drawn up, stating that the offender would apologise to the victims and would not behave in such a way again. The apology was given at the panel. Following the panel, the divisions in the village over this incident were resolved and the offender was befriended by two of the victims. He was later asked to join the Speedwatch scheme. He also undertook a course of anger management of his own volition. Local people talked about the panel and extolled its virtues.

(Keitch 2006)

National Offender Management Service

Following the Carter Report, the government set up the National Offender Management Service (NOMS), in which prison and probation come together to work with offenders throughout their sentence, including restorative approaches where available. The principle behind this is to provide a ‘seamless’ service and to keep offenders out of prison as far as possible. It is planned to run on ‘purchaser/provider’ lines, with restorative approaches being provided if purchasers buy them in (Blunkett 2004; Carter 2003; Home Office 2006a).

Local Criminal Justice Boards

As part of the establishment of NOMS, a regional structure has been planned and 42 Local Criminal Justice Boards (LCJBs) have been set up in England and Wales. These boards bring together the chief officers of all the local criminal justice agencies to coordinate activity and share responsibility for delivering criminal justice in their areas. There is guidance for LCJBs on implementation of restorative justice on a Home Office website (Home Office 2005).

Resettlement

One of the priorities of NOMS is the resettlement of offenders leaving prison and entering the community again. It is well known that many released prisoners soon re-offend unless they are given substantial help and support. There are issues too regarding their offence – some victims wait in fear for the release of their offender, while other victims are preparing reprisals. So victim–offender mediation or conferencing has a large role in resettlement, both for victims and offenders.

The cases described in this section are both from resettlement projects. The case studies show the details of the processes followed. One took place in prison shortly before release, the other one some while after release.

REMEDI

The following case study is from a probation resettlement self-referral scheme to REMEDI, the independent victim–offender mediation service (see p.179).
Case study: Probation resettlement scheme – house burglary

The case was a self-referral through the probation resettlement self-referral system. The account is by the mediators.

Initial visit to offender

We visited Ryan in prison, where he was serving a five-year sentence for his offences. He told us about several houses he had burgled with his girlfriend and an accomplice. They had mainly stolen electrical items but had taken the keys to the cars parked outside, which they also stole. He talked about burglaries as being his ‘job’ and said that at the time he had no concern for the victims. He was an alcoholic and usually drunk when he committed the offences.

He said he had heard about mediation from a friend and that part of his motivation was selfish in that he hoped taking part would help his chances of parole. But after having time to reflect, he also felt he owed his victims an apology and wanted to answer any questions they had. He said he would prefer to communicate by letter but would be prepared to meet the victims if they wished.

REMEDI made contact with the victims through their police victim contact worker and we were told that one of the victims was willing to meet with mediators.

Initial visit to victim

We visited Jean and Michael at their home and they told us of events surrounding the burglary. The offence happened in the middle of the night while they were asleep. Two computers and back-up disks were taken, together with other electrical and some more personal items. Jean’s car had also been stolen. A note which said ‘thanks thief’ had been left. Some of the items, including the car and Michael’s computer, were later recovered, but Jean’s computer and back-up disks were not. This caused her great distress because over a year’s worth of work had been lost, but, more important, the last photographs of her mother who had since died were also on the computer.

The victims decided that they would like to meet with Ryan to try to convey the true human impact of what he had done.

Further preparatory meetings

We revisited Ryan to tell him this. He was very nervous of meeting his victims but was happy to go ahead. He asked for some prior knowledge of the questions the victims wanted to ask him. We arranged to meet him again a few days before the meeting. We then revisited the victims to discuss the meeting. Ryan asked for the victims to talk first, which they were happy to do. They gave us some specific questions to pass on to Ryan, which we did a week before the meeting.

The meeting

On the day of the meeting we met the victims at their house and they followed us to the prison in their own car. After going through the security procedures, one mediator remained with the victims in the room where we were meeting, while the other one met
briefly with the offender in an adjoining room. We then began the meeting with introductions and ground rules and invited Jean to talk first.

Jean spoke of the many ways in which the offence had affected her, Michael and their family. Ryan listened and then offered an apology for what he had done. He said he found it hard to know what else to say but was clearly moved by what Jean had told him. As the meeting progressed Ryan talked more openly. Jean and Michael said they hoped their account would help Ryan make different choices in the future. They asked Ryan to contact REMEDI six months after his release to let them know how he was getting on. REMEDI would then pass this information on to Jean and Michael. The agreement was written down and signed by all present. Jean and Michael shook hands with Ryan. One mediator then left with Ryan for a few minutes’ debrief, while the other mediator remained with Jean and Michael.

**Follow-up visits**

About ten days after the meeting we made follow-up visits to both parties. Ryan said meeting his victims had made him feel very guilty about what he had put them through and that going through the process of mediation had changed him. We gave him a laminated copy of the agreement and he re-affirmed that he would contact REMEDI after his release.

Jean and Michael said they hoped the meeting had been of benefit to Ryan and that it might make him think twice before committing a similar offence in the future. Jean in particular said that mediation had been a cathartic experience. They had gained a sense of closure and were curious about how Ryan would cope once he was released. They talked about the possibility of keeping in contact with Ryan through writing to him, but in the end decided that this would not be appropriate.

We wrote to both parties thanking them for their involvement and letting them know that we were closing the case.

**Manchester Adult Restorative Justice Project**

The Manchester Adult Restorative Justice Project was part of the resettlement programme of HMP Manchester, so focused on prisoners about to be released. The aim was for preparation to take place while an offender was in prison, with any meetings being arranged in the community shortly after release.

The project ran from 2004 to 2006 in conjunction with Greater Manchester Youth Justice Trust, which had developed expertise in mediation and Family Group Meetings (see Chapter 4). The project coordinator was based half at HMP Manchester and half in the community, and the project was accountable to a multi-agency steering group, which included the prison’s resettlement department, Probation, Community Safety, Victim Support and Greater Manchester Police. The project took referrals from the prison, Probation Victim Liaison Units and Victim Support. Referral criteria stipulated that either the victim or the offender was a resident of Manchester, the emphasis was on property crimes and those with a personal victim, excluding hate crimes, domestic violence and sexual offences.
The project undertook thorough assessment of each offender and thorough consultation with each victim, to ensure safety. Where assessment indicated that a face-to-face meeting between victim and offender would be beneficial, a decision was taken as to whether the family of the offender also needed to be involved. For these cases, Family Group Meetings were offered, for others victim–offender mediation was the more appropriate model. In this case, both victim and offender could bring a supporter.

During the first year of operation, the project set up protocols and a database, and achieved five face-to-face meetings with offenders. However, starting with offender-led referrals proved unsatisfactory, because the project could only accept those offenders who were about to be released, which meant that the offence had often occurred several years previously – and many of the victim details were incorrect, or the victims felt too much time had passed for them to want to engage.

So during the second year, the project switched to victim-led referrals, in cooperation with the Victim Liaison Unit (VLU) and Victim Support. It also included more referrals for indirect mediation. This helped to ensure a better flow of referrals, but delays in the VLU receiving information, and the fact that VLUs only received cases of sexual or violent crimes, meant that cases of burglary were not included. Frequent prison transfers were also a problem, as was the short-term funding. Nevertheless, the project received 134 referrals, conducted 48 face-to-face assessments with offenders and 56 victim consultations, and received 17 victim impact statements. This resulted in 15 indirect mediations and one direct (face to face) mediation. When the project closed in March 2006 there were 64 offender-led referrals that could not be pursued.

However, despite the frustrations, the partnerships of the project worked very well, and the victims surveyed were grateful to be contacted, even when they did not want to participate. Significant achievements of the project were the development of a twin-track (victims and offenders) referral system, working jointly with the prison and the Probation VLU; and the development of an adult offender assessment tool for restorative justice.

Case study: Manchester Adult Restorative Justice Project – murder

This case was referred jointly by the offender’s probation officer and the victim contact worker, as the victim’s daughter had made numerous requests for a face-to-face meeting. Alan was sentenced to life imprisonment for the murder of his wife, whom he had stabbed twice during an argument. As a teenager of 14, Suzanne had heard her mother and stepfather argue, and had been the one to find her mother’s body. Prior to this she had had a good relationship with her stepfather, so she lost both her parents as the result of the offence. She had been called on to testify against Alan in court. As an adult she had a history of depression and needed medication and the continual support of the mental health services.

Suzanne had requested a face-to-face meeting with Alan several times over a period of five years, but each time he had either refused or agreed and then withdrawn. Then a
new service (the Adult Restorative Justice Project) was established which enabled this
case to move forward. At this point Alan had been out of prison on Life Licence for three
years, and was living in the community.

Suzanne felt locked in the past, with the fear she had felt as a young girl of 14, and
had continuous feelings of sadness and anger. She wanted Alan to understand how the
offence had affected her throughout her life. She was not looking for an apology or to
forgive Alan, but to confront her own fears – she could not even say his name, referring to
Alan as ‘him’. She wanted to be able to move on.

Alan was ambivalent – he did not seem to accept full responsibility and wanted to
‘put his side of the story’. He saw the offence as an ‘accident’ and felt that he had ‘paid his
debt to society’. He too saw a meeting with Suzanne as an opportunity to move on.

Two mediators met with Suzanne and Alan several times over a period of a year, to
undertake in-depth preparation sessions. They helped both of them to explore what they
wanted to say and what they hoped to gain from a face-to-face meeting. They helped
them to look at the emotions involved and the support they would need.

It was the support issues that became a stumbling block. Suzanne felt she needed the
support of her husband at the meeting, but Alan did not agree, as he felt the dialogue
should be between himself and Suzanne alone. Suzanne felt very angry and frustrated at
this, and wrote a letter to Alan explaining her need for support. This letter brought out a
lot of Suzanne’s feelings, and Alan found these hard to cope with, especially the phrase
‘the man who killed my mother’. He decided to withdraw from the process unless
Suzanne accepted his conditions for the meeting.

As Alan’s conditions would have precluded the creation of an emotionally safe space
for Suzanne, the mediators ruled out the possibility of a meeting at this stage, leaving
indirect communication as the only way forward. However, Suzanne had gained a great
deal from writing her letter to Alan. She was able to refer to him by name for the first time
since the offence, and said:

I don’t fear him any more. That is different for me now. I am frustrated and angry that
I couldn’t meet him face to face and see the impact that would have on him. But he
isn’t capable of seeing my position… he’s different from the man I knew, the Alan I
knew died the night my mother did… I have felt safe on this journey, even if the
outcome hasn’t been the end that I wanted.

Two months after the case had been ‘concluded’, Suzanne contacted the mediators to ask
if Alan’s position remained the same. His probation officer thought Alan might be
rethinking the issue of support, so the mediators visited Alan to explore this. Alan had
just married his partner of some years, and wanted to re-engage with the mediation
process, so he withdrew his objections to Suzanne’s husband attending the meeting. He
decided to bring his wife to support him.

The mediators prepared everyone for the meeting. Both couples attended, and
Suzanne also brought her community psychiatric nurse, while Alan brought his two pro-
bation staff. The supporters formed an outer circle around the core participants of Alan,
Suzanne and the two mediators. Mutual ground rules were established, including respect,
listening, breaks, personal space; and that the meeting was between Suzanne and Alan, so
supporters should not contribute. Suzanne requested that everyone should be searched
before the mediation and that a police officer sit in the room next door, and this was
agreed. She also arranged to call ‘time out’ whenever she felt under pressure, and used a set of index cards to detail all the effects of the murder – the mediators had helped her prepare these to cope with the stress. The meeting lasted over two hours and was a highly emotional encounter – and a successful one.

Both Suzanne and Alan were interviewed as part of the follow-up. These are some excerpts of what they said.

**Suzanne**

The hardest thing was accepting him as an actual person and recognising him as a person…just thinking of him as a person, not as a demon, realising that he had a name and I could use his name… Also I remembered him as he was…it was hard to imagine him as he is now…not having seen him for 21 years…

I’m a stronger person… I really pushed myself… There were certain boundaries that I crossed…things that I brought up…even talking about my mum…it made me a stronger person.

I was angry… I was furious…the anger got me through it. When we were reminiscing, there were some nice memories and the anger lessened but it didn’t put me back into child space – the anger kept me on the straight and narrow…

He took the wind out of my sails a bit…he did keep saying sorry, but I couldn’t take his sorry on board, I couldn’t accept his apology…then there came a point where I thought, I either believe him or I don’t…part of me did believe him ’cos I could see the old person I remembered…he hurt me and my mum but on the whole he wasn’t a bad person… I really looked up to him… I think it’s sad that it’s gone now…

I don’t think that he realised all the pain he had caused – he had a better idea at the end! It made me feel good to let him know how it had affected me. It was good to offload it and pass back to the person who deserved it.

I’ve put that chapter to rest… I’ve done everything I can do, no need to see him again… I don’t fear him, I don’t see him as a demon any more…but forgiveness was not on the table…

Six months ago in my mind I was a 14-year-old child…that 14-year-old doesn’t exist any more…it’s all been very positive…the biggest thing I achieved is walking in as a child but walking out as an adult…

**Alan**

The mediators listened…they came, we talked…they were patient and I wasn’t pushed or shoved… It was something I wanted a long time ago… To say sorry, also helping her get the demons out of her and out of me…I wanted to help myself to a better life…it’s time to move on…

I learnt not to bottle things up…it’s about facing it… When you face it, it’s not what you imagine…

What changed my mind was that I married my wife…we sat down and said, let’s get this over and done with and then we have our lives to live…
I wasn’t scared… I thought shame on myself for letting her down, she had a lot of trust in me… I wanted to say sorry… it shouldn’t have happened.

It was breaking through a wall of shame… I took that wall down in that room… the shame I had… I felt proud of her when she said ‘I walked in here as a child and walk out as a woman’…

The meeting gave me a lot of strength… no doubt that I can move on… I’m just hoping that Suzanne can move on… To go forward has been a big issue for me…

This case study shows the power of mediation in serious cases, and the sensitivity and amount of preparation needed for a successful outcome. The indirect communication paved the way for the possibility of an eventual face-to-face meeting, from which they both had things to gain, especially the victim. Suzanne was able to overcome her fears and move on from childhood to adulthood, and Alan was able to face up to his responsibility and overcome his ‘wall of shame’. Although forgiveness was ‘not on the table’, both had softened their views of each other by the end of the meeting.

(Manchester Adult Restorative Justice Project 2005; Mercer 2006; Spahr-Finney 2006)

Probation Victim Liaison Service

One opportunity for victims of serious offences to communicate with adult offenders is through the Probation Victim Liaison Service. As this applies only to victims of sexual or violent crime, where the offender is given a prison sentence of a year or more, this work is described in Chapter 9.

Renewed government interest in restorative justice work with adults: Research and reports

The success of the Youth Offending Team restorative justice schemes prompted the government to think again about restorative justice with adult offenders. However, they felt they needed evidence that it ‘worked’ – in their terms, prevented re-offending. Accordingly, the Home Office provided funding from 2001 to 2004 for three restorative justice schemes under its Crime Reduction Programme, all involving adult offenders of violent offences (excluding domestic violence, sex offences and offences involving a death):

1. CONNECT, run jointly by Nacro and the Probation Service in London, working with two magistrates’ courts in inner London, taking cases involving adult offenders between conviction and sentence, after sentence or if sentence is deferred.

2 Nacro used to stand for National Association for the Care and Resettlement of Offenders. Now the strapline for Nacro reads ‘Changing lives, reducing crime’.
2. Justice Research Consortium (JRC), an international partnership between UK police forces and criminal justice agencies, the University of Pennsylvania and the Australian National University, working on three sites – in London (Metropolitan Police), Northumbria (police) and Thames Valley (Probation, police, Victim Support, Mediation Oxfordshire and HMP Bullingdon). They used an experimental model in which cases were randomly assigned to conferencing or to a control group (randomised controlled trials – RCTs). In London the JRC worked with adult offenders pre-sentence at the Crown Court. In Northumbria the JRC worked with adult offenders pre-sentence at the Magistrates’ Court, with young offenders given Final Warnings and with adult offenders being cautioned. In Thames Valley the JRC worked with adult offenders suggested for or given community sentences and with prisoners near release. A variety of offences was included, with the emphasis on assault, robbery and personal theft.

3. REMEDI (mentioned above), working in Sheffield with adult and young offenders at different stages of the criminal justice process, covering a variety of offences, and prison as well as community settings.

The JRC used a conferencing model; the other two projects used a variety of methods including mediation, indirect mediation and conferencing. REMEDI was the only one which pre-existed as a project; the other two were set up for the research project (Shapland et al. 2004).

Altogether the projects worked with 1823 referrals which resulted in 524 direct mediations or conferences. This increased the amount of work with adult offenders significantly. Many positive anecdotes emerged from the observer scheme set up to cope with the demand from journalists and criminal justice professionals such as judges and policy-makers. However, no case studies were available for this book, owing to the strict research protocols. Also, as the work was part of a research project, much of the work ceased at the end of the fieldwork phase. REMEDI found ongoing funds to support its work, while workers from CONNECT joined the London Probation Victim Liaison Service and have trained staff in restorative practice. Interim results for this research project can be found in Chapter 14.

In 2006, the Home Office carried out a survey to see how much restorative justice was being practised in the adult criminal justice system. A questionnaire was sent to all Local Criminal Justice Boards (42 in total). Replies were received from 28 of them, and a report compiled in late autumn 2006 (Home Office 2006b).

Thirteen areas reported some adult restorative activity, from fully fledged schemes to small initiatives. Case studies from several of these have been included in this book.

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3 Later two prison case studies were released for media purposes. They can be found in Chapter 9.
Other restorative services included the Devon and Cornwall Police scheme, in which 350 officers were trained in restorative practices for use in the community; a domestic violence indirect restorative justice service in Derbyshire; and the Swindon Crime Initiative for indirect restorative work with first-time non-violent offenders. Lack of resources was identified as the main barrier (by 19 boards) to use of restorative justice in the adult criminal justice system.

Scotland
Restorative justice involving adult offenders in Scotland was started in the 1980s by Sacro (formerly the Scottish Association for the Care and Resettlement of Offenders, now Safeguarding Communities, Reducing Offending) in conjunction with the Procurator Fiscal. There are three such schemes in Scotland: North and South Lanarkshire; Aberdeen City; Edinburgh and Midlothian – the first two have been in existence since the start, so are among the longest-running services in the UK.

The Mediation and Reparation services provide opportunities for adults who have committed relatively minor crimes to make reparation to those harmed or affected by those crimes. Cases are referred by the Procurator Fiscal as an alternative to prosecution in the summary courts. The services use shuttle mediation or face-to-face meetings, depending on the wishes and circumstances of the parties.

Some of the restorative justice services operating in the youth justice context also take a few referrals from the Procurator Fiscal for 18–21-year-olds (Sacro 2006).

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Case study: Dramatic way to leave a job

*This case study illustrates how the service can offer a comprehensive alternative to court that satisfies those directly affected by a crime.*

**Background**

The Procurator Fiscal referred a case of breach of the peace to our service. An employee and his supervisor had endured a difficult working relationship over a two-year period. The employee decided to resign from his post and gave notice of his imminent departure. He decided to mark his final workday in a peculiarly dramatic fashion. He arranged for a friend to video him giving his supervisor a handwritten note outlining in offensive language what he thought of her. The purpose of the videotape was to capture his supervisor’s reaction. Their place of work was full of customers at the time of the incident.

**Mediation process**

The case was assigned to one of our experienced volunteers for an initial assessment of its suitability for mediation. The volunteer assessed that the depth of anger and misunderstanding between the parties was so great that the case needed a co-worker. A staff member was then assigned to the case along with the volunteer.

On meeting the victim, she spoke of being quite humiliated by the incident. She said it was important for her to have a safe place to express her anger and hurt to the accused.
Her main concern was to be vindicated and to be reassured that, despite their problematic working relationship, she did not deserve to be treated in such a horrid manner. The victim also wanted to ensure that the accused learnt that he was accountable for his behaviour.

The person accused cooperated fully. It was the first time he had ever been in trouble with the police. He spoke about how he realised, when he handed over the note, that he had gone too far. His main concern was to avoid a criminal conviction as this could adversely affect his future career, but also recognised his responsibility for needlessly hurting someone.

**The outcome**

Both parties agreed to meet face to face with the supportive presence of two experienced mediators. It was quite an intense meeting in which both parties took the opportunity to communicate clearly for the first time the depth of ill feeling that had built up during their work together. There was no clear way forward at the end of this two-hour meeting. Individual follow-up meetings with each party were held soon after and a formula of words was agreed to resolve the incident. By way of amends, the accused gave an unreserved apology for his behaviour, and handed over the master copy of the videotape to Sacro to be destroyed; he also agreed to do 15 hours’ voluntary work on a farm. When the agreement was completed, the Procurator Fiscal was informed that the case had been successfully diverted.

**Feedback**

The victim spoke of how the mediation process had enabled her to assert herself in a way that restored her self-esteem and dignity. She felt that the accused no longer had any control over her and that she could draw a line under the incident. The accused spoke of how he had learned through the mediation process the importance of talking about his feelings as opposed to acting them out inappropriately. He spoke too of the deep impact on him of being held directly accountable to the victim in the face-to-face meeting.

**Case study: Assault due to misunderstanding**

The Procurator Fiscal referred a case of assault to the Sacro mediation service. A 35-year-old woman was charged with assaulting a younger woman on a bus and committing a breach of the peace. The case was allocated to a project worker and an experienced volunteer.

A more complex picture emerged when the Sacro mediators visited the victim. The victim and accused were acquaintances and had both been present along with others when the accused’s mobile phone had been allegedly stolen. Confusion arose as to who was responsible for stealing the mobile phone. The victim said that the day after the phone went missing, the accused assaulted her in the mistaken belief that she had stolen the phone. The victim went on to say that, although she was not physically or emotionally hurt by the actual assault, she was very embarrassed at being singled out for such unwarranted attention on a public bus in front of others. She spoke too about her anger at
being picked on for something she did not do. The victim agreed to use the mediation service because she knew the accused and she thought that going to court would not help them clarify what happened. She asked for direct mediation, to sort out the incident in a face-to-face meeting with the accused. She also wanted to receive an apology for the assault.

More unhappy details were revealed when the Sacro mediators met the person accused. She had been suspended from her job pending the outcome of the assault charge. She explained that on her birthday she had asked a relation to mind her house while she went out to celebrate. When she got home she discovered that her relation had taken quite a liberty and had used her house as a venue for an impromptu rave! She found her house in a total mess and discovered that many of her belongings had been stolen. It had been a memorable birthday for all the wrong reasons. She explained how very upset and angry she was at the state of her house. She had been informed that the woman who was the subsequent victim of the assault had taken her mobile phone. What she understood by this was that the victim had stolen the phone. So the victim got the full force of her anger when she met her on the bus. The accused acknowledged that she had jumped to the wrong conclusions about the victim, and was ashamed of herself for assaulting her. She was glad of the opportunity to apologise.

On meeting, the two parties conveyed much of the above information to each other. The victim was able to explain that, rather than being the culprit in the phone theft, she had actually confronted the thief and recovered the phone. The accused apologised and said that she realised that others had used the victim as a scapegoat because she had been in trouble before. Both parties assured each other that they would carry none of this on into the future.

The outcome was that the accused was able to return to work after being suspended, and the misunderstandings and bad feelings were cleared up between the two parties.

These case studies highlight the effectiveness of mediation in addressing the underlying causes of a dispute when both parties are willing to engage with the process.

Sacro has also started a service to facilitate communication post-sentence between those harmed by and those responsible for severe violent crime, called ‘Talking After Severe Crime’ (TASC). It offers the opportunity for those affected to:

- move toward personal healing, recovery and construction
- attend to needs left unaddressed by the criminal justice process
- increase awareness and understanding of the human consequences of the offence.

It offers communication – direct or indirect – in a safe and secure environment, helped by mediators/facilitators who have undergone special training (Kearney 2005, p.1).

In HMP Cornton Vale (women’s prison), staff are actively engaged in developing restorative justice initiatives within the prison (see Chapter 10).
Northern Ireland

So far there are no restorative justice initiatives expressly for adult offenders, although both the community-based schemes (see Chapter 7) have no strict upper age limit, and cater for many young adults. The Criminal Justice Review Group (2000) recommended that restorative justice schemes should be piloted for 18–21-year-olds.

Summary

This chapter has looked at the early Probation-led mediation services and their later links with independent victim–offender and community mediation services. The Criminal Justice Act 2003 affords new opportunities for restorative justice, but without the resources to implement them thoroughly. Two community justice initiatives are described. The National Offender Management Service (NOMS) and its emphasis on resettlement has given rise to restorative justice work in a few places. Renewed government interest in restorative justice with adults has given rise to a large research project, with results awaited in 2007. Scotland has three of the oldest adult restorative justice projects, which are still operating. The overall picture is of piecemeal opportunities with little coherence (due to shortage of resources) – yet the projects which are in operation achieve good results. Restorative justice with victims and adult offenders works just as well as with young people.

References


CHAPTER 9

Restorative Justice in Prisons 1
Prisoners Making Amends

Introduction
Although one might think that the punitive ethos of prisons would be totally hostile to ideas of restorative justice, there has been considerable interest in it in prisons. After all, prisoners have time on their hands and could use it to put right some of the harm they have caused – or at least begin to understand the effect of their actions. And many prisoners are remorseful and keen to take up such opportunities. This chapter looks at these aspects; the following chapter at restorative approaches to relationships in prison.

Both chapters draw on material from previous reports (Liebmann 2001, 2006; Liebmann and Braithwaite 1999), and the Home Office Restorative Justice Mapping Exercise in 2004 (in which 134 prisons in England and Wales responded to a survey of prisons’ involvement in restorative justice), as well as new material. Case studies and examples are from recent and current projects – some prison projects can only attract short-term funding (e.g. one or two years), though others have been going for some time now.

Of course, the fact that it has proved possible to undertake restorative justice projects in prisons should not lead people to think that someone should be imprisoned in order to access restorative work – the restorative justice projects that take place in prisons can also be (and are being) done outside, and with less difficulty. But it is heartening to know that even in prison it is possible to work restoratively in a number of ways.

Community service
Community service in prisons generally has the aim of enabling prisoners to repair the damage they have done by putting something back into the community in a variety of ways. Many prisons have been doing this for years, working with the surrounding community and providing services to community groups.

Inside Out Trust
The Inside Out Trust was founded in 1993 to provide prison inmates with skills likely to contribute to their reintegration into the community and especially employment, via
projects to make goods and services available to people in need. In 2005 they had 142 projects and worked with over 5000 offenders in 70 prisons (including male and female prisons, all types of adult prisons, young offender institutions and one juvenile establishment), with more prisons waiting to take part. Over the year, offenders renovated 10,000 bikes and 5000 wheelchairs for people who could otherwise not afford them (Inside Out Trust 2006).

Recent projects have included:

- computer refurbishments for Africa
- renovation of bicycles and trailers for Romania
- renovation of wheelchairs for local Red Cross group
- murals for a local school
- a bicycle project for orphans in Africa
- restoring heritage parks.

The Inside Out Trust also supports several prisons in the production of Braille, Moon and large print for visually impaired people.

The benefits for prisoners of these projects are gaining a sense of worth and value from helping people in the community, learning new skills, learning to work with others, developing concentration and thinking about how other people live and what they need in order to survive. Increasingly the Inside Out Trust is also linking the work done by prisoners to qualifications they can gain, so that they are more employable on release.

The benefits of community work in prisons and secure settings are:

- benefits to people in need
- meeting the needs of the local community
- the rehabilitative effect on inmates
- increased good relations between inmates and prison staff
- a better atmosphere in the prison or secure setting
- better relations between prisons and the general public
- changing the way inmates are viewed by themselves and others.

**Case study: Computer repair workshop, HMP Stafford**

The Inside Out Trust facilitates a large computer repair workshop at HMP Stafford. Computers are donated to the workshop from various places, including schools, colleges and commercial companies.

Once in the workshop, the computers are stripped down to their component parts, cleaned and rebuilt to the desired specification. Each computer is thoroughly tested before being donated to a beneficiary. There is ongoing training in the workshops and,
Once trained, the prisoners work as a team, each taking on a responsibility and teaching each other. The motivation and dedication of the instructors has resulted in a highly efficient and well-structured workshop.

Beneficiaries include local organisations such as hospices and youth groups, as well as other charities that take the computers abroad. The charity SASHA (Staffordshire Ambulance Staff Humanitarian Aid) takes renovated computers to schools/orphanages and hospitals in Eastern Europe. The computers are also taken to Africa via Computers for Charity.

Feedback from the beneficiaries is received through letters and photos. Representatives of the beneficiaries are also encouraged to come into the workshops to give small presentations. This feedback forms an essential part of the restorative justice workshop approach. Here are some quotes from prisoners working on Inside Out Trust projects:

- It feels good, I’m putting something back into society.
- It’s good, it’s helping others who are less fortunate than us.
- Thank you for giving me the opportunity for doing such valuable work for people.

Case study: Urban park regeneration schemes

The Inside Out Trust has also been involved in several large urban park regeneration schemes. The Albert Park Project in Middlesbrough (2000–2004) involved partnerships between five prisons, the local authority, the Probation Community Service Unit, seven primary schools, and many other people and organisations. Albert Park was a Victorian ‘People’s Park’ opened in 1868 in a densely populated and deprived area of central Middlesbrough. Over the years it had deteriorated greatly, and needed a £4.5 million restoration scheme to rescue it for the future. The scheme included:

- new facilities, including play areas, a roller-skating rink and a new visitor building
- the restoration of historic park features and gardens, for example the fountain, sundial and bandstand
- major environmental improvements to the lake
- major refurbishment of the footpath network and seats.

Prisoners helped in a variety of ways:

- Young offenders from HMYOI Deerbolt (holding 486 sentenced inmates) helped by restoring six rowing boats which were over 100 years old, and which had lain in the grass or under water for years. They also created brightly coloured bunting and flags for the launch events, using ideas from local schoolchildren.
- Adult prisoners from HMP Holme House (a local prison housing 963 inmates) made tables and chairs for the café and community rooms.
- Prisoners from HMP Kirklevington Grange (an open prison where 80 prisoners finish their sentence) helped produce an art exhibition for the visitor centre, and
took up community placements with the park rangers and Friends of Albert Park.

- Offenders on Community Service Orders\(^1\) refurbished the metal railings around the lake and play areas.

All this helped to reintegrate prisoners into the community and also changed people’s perceptions of prisoners (International Centre for Prison Studies 2004). The Albert Park Project inspired two more similar projects, Saltwell Park in Teesside and the Edenham Project in Reading, again involving prisoners, offenders in the community and many local organisations (Inside Out Trust 2004; Thames Valley Partnership 2004a, 2004b).

Prison initiatives

Several prisons have their own projects linking prisoners and staff to the community.

**Case study: Prisoners help in Citizens Advice Bureau**

At HMP Springhill, an adult male establishment, some prisoners work in the local community, and charities like Oxfam benefit from workshop activities and a clothes-sorting service. Victim Support volunteers run victim awareness workshops in the prison. A new scheme places long-term carefully assessed offenders with the Oxford Citizens Advice Bureau (OxCAB) during their last stage of imprisonment – this has helped OxCAB to offer services to far more people. Response has been very positive (Thames Valley Partnership 2004a, 2004b). Springhill Prison has been involved in this work for over ten years and has a community links department to oversee and develop the work.

**Case study: Prisoners talk to schoolchildren about drugs**

HMP Wellingborough (adult male) has run a youth and community project since 2000, in which serious drug offenders, identified as suitable by the prison, give presentations on the dangers of drugs, to classes and groups of schoolchildren who visit the prison for this. Others go out to schools in the local community to do such presentations. The project, called ‘Drugs and Crime Mean Doing Time’, has made presentations to 375 groups, including 4000 young people, 500 teachers and 55 Victim Support workers. One of the prisoners, Gary, aged 33, serving a five-year sentence for attempted armed robbery while under the influence of heroin, said while being interviewed for an article: ‘It’s given me

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\(^1\) Now called Unpaid Work, one of a list of possible requirements of a Community Order.
confident. I got over my drug addiction but I still thought things would always be the same. Now, I feel I can use what happened to me to help others.’

(Banks 2004)

There are many other prisons with smaller-scale projects working with and for the community. What makes these examples restorative is that prisoners take responsibility for making amends, and communities receive help and see prisoners more positively. This also contributes to the reintegration of offenders on their release.

**Victim awareness**

*Victim awareness/empathy/impact groups*

As well as putting things right for the community, some offenders want to make amends to their victims. But before offenders meet victims, they need to undertake some victim awareness work. This can be run as a short course of individual or group work. It can also be an intervention in its own right. The Home Office Restorative Justice Mapping Exercise showed that 46 prisons provided victim awareness courses in 2004. Some of these were part of other courses, such as the Sex Offender Treatment Programme, or the Sycamore Tree programme (see below), while most were self-standing courses, aimed at helping offenders to understand the harm they caused, so that they would be more motivated to avoid re-offending.

Techniques used to develop victim awareness can include:

- watching videos
- victim empathy exercises
- discussing their own experiences of victimisation
- role playing victims
- writing an account of their worst offence from the victim’s perspective
- writing a letter to the victim (which is never sent).

Very many prisoners have been victims as well as offenders (and there is often a connection), and reflection on these experiences can help them be more aware of other victims. They may also need to receive help with their own traumas before they are able to empathise with others.
Case study: Victim Impact Groups in Bristol Prison


Following a six-month project to introduce restorative justice ideas to three prisons in 2001–2002, HMP Bristol obtained further funding to set up a Restorative Justice Project from April 2003 to March 2004. The aim of the project was to design and implement a programme of Victim Impact Groups and individual work with prisoners, and to deliver an enhanced victim contact service. The target group was to be ‘prolific offenders’ and those remanded or convicted for street crime offences (robberies, assaults, etc.). However, the project was not exclusive to these groups.

Because Bristol Prison is a local prison, inmates are often moved to other prisons at short notice, to make room for new ones coming from the courts. So the programme was designed to fit into one week. It also had to fit in with prison movements, so the maximum time available was 2 ¼ hours on three days per week: Monday, Wednesday and Thursday.

Over the course of the year, 80 men volunteered for the programme and 33 actually managed to attend. (Some were moved to another prison, others had to attend court or had legal visits, and the funding finished while many remained on the waiting list.) Six groups ran, each with between four and eight men, in a small room in the Education Block (Wootton 2004).

The structure of the programme was as follows:

Module 1: Victims

- Introductions.
- Continuum exercise – the men placed themselves physically along the continuum between ‘true’ (one end of the room) and ‘false’ (the other end of the room) in response to statements like ‘It’s the victim’s fault that I’m in prison’ and then explained why they had taken up their position.
- Ranking offences in order of seriousness.
- The effects of crime on victims – group activity.
- The impact of crime – short talk.
- Role reversal exercise – building up a picture of an offender (role played by facilitator), the men taking roles of those affected by the offence.
- Evaluation.

Module 2: Families, friends and community

- Clumps game (to identify different groupings people can belong to).
- I’ve hurt and been hurt (to acknowledge that offenders have often been victims too).
- ‘Spot exercise’ – starting with an offence, building up a picture of the victim.
• Individual reflection on own offence using the spot exercise.
• Each person has a different role card and only steps forward in response to a question (e.g. ‘I feel safe walking alone at night’) if they can answer ‘Yes’ in their role. This exercise shows how people who are already vulnerable are more affected by crime than others.
• Rainstorm/shakedown – physical activity to leave any personal stuff behind.
• Evaluation.

Module 3: Me and my victims — the way forward
• £10 note exercise – imagine different people have dropped a £10 note, would you take it?
• A time when you have been a victim.
• My crime – my victim(s): imagine how the victim of one’s own crime felt.
• Role play own victim talking about how they were affected.
• Evaluation.

(Liebmann and Wootton 2003)

All the groups seemed successful, and only the men who were transferred out of the prison failed to complete the course. Most participants were very honest and welcomed the opportunity to do this work outside the official reporting system. They said they would not have spoken as openly if they were being assessed – they would have just said whatever sounded good for the system. The exercises worked well, particularly the role-reversal role play, the discussions about ranking offences from the victim’s point of view, and the £10 note exercise. The peer challenges were very important, as was the support they showed each other. Their comments included:

‘I’d never thought about my victim before.’

‘I see how much harm I am causing.’

They also welcomed the challenging but non-judgemental space to look at these issues, and were enthusiastic about the concept of restorative justice.

One response from a prisoner was:

‘I’ve crept [burgled houses at night] all my life. My attitude was that ‘they’re insured, it doesn’t matter’. I don’t feel like that any more though. After coming into Horfield this time I met the Restorative Justice Coordinator, Lindy Wootton, and got a place on the Victim Impact Course. This really opened my eyes to what my victims suffered. All the stuff I’ve learnt on the course I’ve just got to put into practice on the outside. But what is amazing is that I’d just never really thought about my victims before. Anyone thinking about going straight should definitely think about getting in touch with the Restorative Justice Project and getting on the Victim Impact Course if they can.

(Bristol Prison Restorative Justice Project 2004, p.4)
Cell work

Although the funding for the Restorative Justice Project finished in 2004 (continued funding had been expected but then was not available), a small grant enabled the programme to be converted into a set of six cell-work modules. Prisoners would work through the modules on their own, and then go through their work with a member of staff from the prolific offenders project or drugs team. Over the period March 2005–2006, six prisoners completed the modules, with several more starting. They seemed keen to complete each module and ask for the next one. They all said they got an enormous amount out of the course. Several said they found it painful to look back at their offences and consider their victims, but that the restorative justice process had been the first time they had been encouraged to do this. They all said they would like a chance to explain to their victim why they committed the offence and an opportunity to apologise. Comments from them included:

I never stopped to think about how the victim would view things. I never thought about how it would affect the victim emotionally.

This has opened up a door to the way I should think from now on.

I want to tell my victim how deeply sorry I am for everything I have put them through and I would also ask if there was any way I could make amends for my actions.

(Skeen 2006; Wootton and Liebmann 2005)

Sycamore Tree

Run by Prison Fellowship, Sycamore Tree is a victim awareness programme that uses restorative justice principles. It is based on the Bible story of Zacchaeus, who climbed a sycamore tree before meeting Jesus and making restitution to his victims (Luke 19: 1–10). Sycamore Tree enables prisoners to understand the impact of their crime on victims, families and the community. It also encourages prisoners to accept personal responsibility for their actions and points to the need to make amends.

Although Christian-based, Sycamore Tree is open to all prisoners, regardless of their faith, gender or age, and is run by trained Prison Fellowship staff and volunteers. In the year ending March 2006, Prison Fellowship ran 102 Sycamore Tree programmes, involving 1450 prisoners in 32 prisons in England and Wales. The programme was accredited by the Open College Network in November 2003. Prison Fellowship also uses local volunteers to run a variety of Christian programmes in prisons, working closely with prison chaplains and local churches. Prison Fellowship England and Wales is one of 106 groups affiliated to Prison Fellowship International.

Sycamore Tree has been run in prisons in:
Volunteers (often from Prison Fellowship) who have been victims of crime come into prison to tell their own stories about the impact of crime on their lives. At the end of the programme, prisoners are given the opportunity to take part in symbolic acts of restitution, taking the first step towards making amends for their past behaviour. These may include poems, letters and art and craft items.

Sycamore Tree can have a big impact on the prisoners who take part:

Sycamore Tree made me look at myself, what kind of person I am. I want to change.

Hearing from a victim really hit home.

I think every prisoner should do Sycamore Tree because we will all understand more about our victims.

Taking part in Sycamore Tree can also be a powerful experience for victims. A surrogate victim\(^2\) from a local Victim Support group wrote:

As I told my story I was not totally sure that I was being heard by the prisoners. However, the final session did surprise me. I have totally changed my attitude as I was touched by the emotive material that the men had produced. I feel that I have made a difference and they have changed my attitude... I felt they had grown. I have grown as a person. They understood my pain and looked into my soul. They gave me back my faith in the human race.

Research in England and Wales and New Zealand showed a statistically significant reduction in attitudes known to be conducive to offending (Prison Fellowship England and Wales 2005; Prison Fellowship New Zealand 2005).

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\(2\) In this case surrogate victim means someone who is not the actual victim of these offenders, but a victim of a similar crime.
Case study: Sycamore Tree course in one prison

The following account of a Sycamore Tree group is by a long-serving Prison Fellowship volunteer who has had specific training to present Sycamore Tree programmes.

Week 1

The room is ready, all the equipment is in place and everything is quiet and still. As they arrive we gain our first impressions of one another. Some of the men are nervous, some subdued and some are obviously wanting to make an instant impression. We spend some time during this first week to get to know the group, to help them to relax, to remember their names (first names only) and to establish trust. We work at setting the atmosphere and the boundaries. We talk a great deal about Zacchaeus, exploring what happened to him, and we watch a video as an introduction to the subject of restorative justice.

Week 2

This week is somewhat harder as we now have to begin to think about ourselves and taking responsibility. What does taking responsibility mean for the men, for their families, friends and community? We talk about the impact of crime and the ‘ripple effect’. We demonstrate this by throwing an apple into a bowl of water. They exclaim as the water splashes on to the floor; some of them laugh and then we hope they get the point. Crime has a long-term effect. Like the ripples on a pond, crime affects them and their families, friends, communities; and likewise the victims and their families, friends and communities.

Week 3

This is the week when victims of crime join the group to tell their own stories. This can sometimes be emotional. The men are quiet and absorbed as they listen perhaps for the first time to a victim describing what happened. Sometimes the men’s faces reflect the feelings being expressed. Their eyes and ears are being opened – victims are people too. Often the men ask a lot of questions – were you angry, was the person who did this to you caught, do you forgive him or her?

Week 4

Back on our own again this week, we are reasonably comfortable now with one another. We talk about confession, forgiveness and reconciliation. Huge issues where we can only scratch the surface but hope to stimulate their thinking. We talk about what reconciliation would mean for them and one man says it would mean ‘everything’. For some it is evident that they long to be forgiven, but sadly know they may never find that for which they yearn.

Week 5

Is it Week 5 already? We have encouraged the men to make an act of restitution as a tangible way of apologising for what they have done – something we do to show we are sorry for what we have done. The atmosphere is different – we have the volunteer victims with us again and also some invited guests. Maybe some of the prison staff as well. Later
the governor will come and present the certificates. It feels like the last day of term – there is anticipation and expectation.

We set the scene for the acts of restitution – we light a candle to represent all victims and as a symbol of hope. Slowly the men come forward, one at a time. There are some poems, sometimes very poignant, letters to victims or maybe family members – some deep emotions are expressed here and a lot of courage shown as well. We applaud them all. There are works of art, a drawing, something made. Who knows what thoughts went into those works of creativity? There is laughter as well – someone has brought toothpaste and a toothbrush to represent cleansing. One man has brought a red polyanthus, which he has nurtured and restored to full bloom after it had been thrown out for rubbish. He describes how he identified with this plant – he saw himself as rubbish. Slowly he has regained his identity and self-worth. Later that same day he is granted his parole.

The certificates are presented and we applaud these men who in five short weeks have worked so hard on issues with which we all at times struggle. We give each man a sycamore seed as a symbol of new life and growth. We have tea and biscuits – and doughnuts! And then it is time to say goodbye. We wish them well for their future. We hope and pray that they will continue to progress towards release.

As one man said – ‘Sycamore Tree has given me the tools to put my life back together. Thank you.’

Case study: Sycamore Tree final session

This account was written by an invited guest to a final session.

I was invited to attend a final session of Sycamore Tree at HMP Erlestoke. I arrived in good time and took part in the briefing session with the Sycamore Tree facilitator Tracey, the prison chaplain and four other volunteers. Twelve men arrived and we all sat in a semi-circle facing a low stage. There was a mixture of short- and long-term prisoners, including two lifers; black and white men; local and from far away, including some from other countries.

Tracey welcomed everyone, including the special guests for the last session, and then asked small groups (who had worked together throughout the course) to recap on previous sessions and then feed back to the whole group. Then she invited everyone to read out or present their thoughts that they had written in their workbooks. Nine out of the twelve took part. Several were illiterate and needed help to present their pieces. There was a song, a rap (see overleaf) and several letters. Here are some excerpts:

I want to say a big sorry to all the people that I have caused any trouble, in the ripple that I have created – to the police, lawyers, judge, barrister, and most of all to the people in the community. I would love if they all will give me that one chance to show them that I am truly sorry of my crime, I have paid the penalty so please can you all find the heart to forgive me. I am promising you all that I will never try to cause any more pain to others.

To whom it may concern (who are many) – I am sorry for the crime I carried out. I would never steal if I was not on drink and drugs. I never thought of my victims at all while I was out of my nut. I wish they had brought this course in 20 years ago,
because I wouldn’t be sitting here now. I wish I could turn the clock back, I am so sorry for the stress, the hurt and anger that I have put you and your family through. I want to be trusted back in the community. I know that I will not go back to the crime, I have gone out of my way to do lots of courses. I hope you can forgive me and see that I am trying to change.

My name is [XXX], your name is Ali
This is my way to show I’m sorry
I know I was wrong and take responsibility
Now I ask you please to forgive me
I hurt the community I’m trying to restore
I’m on a course called Sycamore
My name is [XXX], your name is Ali
Please forgive me coz you know I’m sorry.

I am writing you this letter to let you know how sorry I am for what happened to your husband as a result of that accident. I hope you will be curious to know what really happened. After the first collision, the two cars spun round and hit the lorry that was parked. I am not expecting you to forgive me but I want you to understand how sorry I am for what happened. The guilt I feel as a result of that tragic accident will never leave me for the rest of my life.

I cannot read or write so I have asked someone to write this for me as I dictate it to him. Firstly I must say to my victims, whose home I invaded as a result of my drug-fuelled greed, that I do fully appreciate and understand the initial horror and sense of violation of their privacy that they have had to come to terms with. I tender my sincere apology for my selfish and criminal action, and I hope that their trauma can be lessened by being made aware of my profound regret. I am now clear of the drug habit, although I know that there will be times of weakness that I will have to overcome, if I am to continue my own process of rehabilitation. It won’t be easy carrying on as a useful member of society, but that is my firm intention.

It was a very moving session. Most of the men knew that they could not do anything for their victims – except to resolve to live their lives better. The session finished with the giving out of certificates, a break, refreshments and the completion of their workbooks for their Open College Network certificates.

Some people have criticised Sycamore Tree for drawing too exclusively on Christian themes in a society that is multi-cultural. There is a similar course developed by a Muslim working in HMP The Mount, based on the story of Joseph (Genesis, 37–47), victimised by his brothers (El Sharkawy 2006).

SORI programme, Cardiff Prison

The SORI (Supporting Offenders through Restoration Inside) course was developed by Cardiff Prison Chaplaincy following contact with the Bristol Prison project (see above) as a multi-agency project tailored to the needs and strengths of HMP Cardiff. It devel-
oped into a series of voluntary courses for offenders, victims and community representatives based on their individual needs.

- **Introduction to SORI.** A one-day awareness-raising ‘taster course’ to introduce offenders to restorative justice principles, and help them decide whether to enrol for the full Victim Awareness Course.

- **Victim Awareness Course.** Victim empathy course for offenders (six days). This includes role plays, group work and individual exercises to encourage victim empathy and an understanding of the ripple effect of crime. Offenders are encouraged to consider how they might make amends to their own victims while inside and on release. The course culminates in individual presentations to representatives from the wider community.

- **Victim Impact Course.** Preparation course for offenders to meet victims (three days). Offenders are trained in open listening skills and body language awareness, and are shown examples of mediation between victims and offenders, to prepare them to meet victims of similar crimes.

Separately, the restorative justice coordinator meets groups of interested victims from local colleges and community groups, to give information about the SORI programme. Victims are interviewed individually about their experience of crime and their expectations of meeting offenders.

Ground rules and protocols are shared with both groups before meetings take place.

- **Victim–offender Groups.** Small groups of offenders who have completed all the above courses meet victims of similar offences in an intense one-day programme. Offenders are ‘matched’ with victims who have experienced crimes similar to theirs, and groups are facilitated by SORI tutors, helped by staff from Victim Support, the Victim Liaison Unit and HMP Cardiff.

- **Individual cell work programme.** Individual work with offender and a mentor, based on the programme from HMP Bristol – for offenders who are not suitable for group work.

Two lifer prisoners who have been through the programme, and received extra training, act as peer tutors and support workers for offenders returning to their wings, as the courses can be emotionally draining for participants.

During the pilot phase April 2005 to February 2006, the following programmes were run:

- 4 Victim Awareness Courses: 33 offenders (including 15 lifer prisoners) and 30 community representatives.

- 2 Victim Impact Courses: 23 offenders and 40 victims.

- 2 Victim–offender Groups: 20 offenders and 33 victims.

Feedback suggests that victims feel a sense of resolution and emotional closure, so can ‘move on’ emotionally. Offenders have expressed a sense of responsibility and relief, as
well as increased self-esteem after apologising and helping victims. Both parties have described mutual stereotypes being challenged (Houlston-Clark 2006).

An evaluation by the psychology department at the prison showed those who had been involved experienced increased motivation to change and an increased awareness of the impact of their crimes (Miles 2005).

**Case study: SORI – victim of burglary and murder**

Heather’s house had been burgled 20 years before, and then ten years later a close friend was murdered. She recounted her experience:

*Burglary –* My house was burgled when I was away on holiday. A lot of my personal possessions were taken. It felt as though my own private space had been invaded and spoiled. They went through personal things like family photographs. My house was no longer a home. I felt unsafe. Added to this there were five offenders, four of whom were sent to prison. One got probation and he moved into his house directly opposite mine – I felt he was watching me every day – I had to leave my home.

*Murder –* My close friend (and the mother of my daughter’s best friend) was murdered along with another person. The first feelings were of total disbelief, great sorrow, loss, confusion and total devastation. Anger then set in, I wanted revenge. Then I felt anger at myself for feeling that way. I wanted to take the pain away from the children and Cherry’s relatives. I then questioned: why and what if? Could I have done anything to have stopped it happening? The pain and torture that Cherry must have gone through still makes me feel sick. The two murderers were found and convicted. Both are still in prison although I don’t know where. One keeps appealing against his conviction.

Speaking about the lasting effects, she said:

*Burglary –* I am more cautious now and I tend to worry about my home more than I used to. But this has eased a lot due to the timescale of when this happened.

*Murder –* I still feel complete loss, sadness and sorrow. I still think of what Cherry would be doing if she were here now. However, the feelings of revenge have gone.

In preparation for her participation in a meeting involving two offenders who had committed similar crimes, she was asked if she might have particular questions. She said:

Why? Why me? Why Cherry? Did you not think that you would be taking a mother away from her children? Do you regret what you have done? What were your thoughts, feelings at the time/before/after? How could you have caused so much pain?

But I also want to understand what their life circumstances were that caused them to behave in the way they did. How do they think their families have dealt with their actions? Will this help them to adjust their behaviour to prevent them re-offending?
The SORI programme arranged small group meetings between carefully matched victims and offenders (who had taken part in victim awareness courses). Heather’s group included two lifer prisoners who had murdered someone. After the meeting she said:

The meeting was useful in giving me a voice as a victim to say what had happened to me – the chance to understand ‘Why me?’, etc. Also to understand offenders and what makes them offend – and to realise that we are all people! It was very emotionally draining and I would have liked more time, but it was very worthwhile. Although they were not able to answer specific questions because they were not the actual offenders in my case, some of my general questions were answered – they were able to say how they felt at the time of their offence and how they feel now.

I don’t think my behaviour has changed, but I do feel much lighter as I was able to share my experiences, which is something I have never done before. I also feel reassured that I am not completely mad and that the feelings I have are the same as others in similar situations. I know that the feelings I am getting are being felt by others and are not just specific to me – plus the offender also has feelings of a very similar nature. After talking to them and listening to their stories, I am surprised at how easily any one of us could get ourselves into situations that we are not able to deal with, and that we could find ourselves in their positions.

This case study leads on to the next section, in that it describes a small victim–offender group.

**Victim–offender groups**

Victim–offender groups are groups in which victims of crime and offenders meet; the victims have suffered similar crimes (but not the actual crimes) to those perpetrated by offenders; for example, four burglars might meet four victims of burglary. The aim of these groups is to provide a safe space for victims to say how they have been affected and for offenders to learn about the effects of their actions. They can be easier to organise in prisons than in the community because the offenders are all there. Sometimes a victim–offender group can be a single session as part of a victim awareness group, as in the Sycamore Tree and SORI programmes described in the last section.

**The first recorded group**

The first such group took place at Rochester Youth Custody Centre (now an adult prison) and was designed and evaluated by Gilles Launay (Launay 1985, 1987; Launay and Murray 1989). This was the model that many other similar groups have been based on.

**Case study: Victim–offender group – Rochester Youth Custody Centre**

The offenders concerned were aged between 15 and 21, convicted of burglary offences, and had a long history of offending. The victims were selected by Victim Support and the
local Crime Prevention Office, and many were victims of unsolved burglaries. Offenders who had committed commercial burglaries were separated from those who had committed domestic burglaries, as were the victims. The process consisted of three sessions, attended by victims, offenders, organisers, Victim Support and police representatives (to support their referrals).

At the first session, victims described their reactions and feelings about being burgled, to give offenders some understanding of their distress. The offenders then had to accept the responsibility for their crimes and the effects they had on such victims. It was significant that, in this type of group, offenders would discuss their views and feelings, whereas if victims’ rights group representatives gave offenders the victims’ view, very little discussion took place.

The second and third sessions involved role plays and exercises which served to cement the relationships between victims and offenders. They were asked to enact a mediation/reparation meeting where a victim and his or her own offender tried to agree a reparation contract; they were then asked to reverse roles, which was difficult for them. They acted as a team to resolve some of the difficulties that arose, and it was often difficult to part at the end of the session.

Research showed that victims and offenders gained from the group; more detailed results are given in Chapter 14.

Other victim–offender groups
Following the Rochester Youth Custody Centre research, victim–offender groups have been run by Probation Services (see Chapter 4), and a short group for robbers and robbery victims was run in Bristol Prison in the early 1990s. A more recent group is described below.

Case study: Victim–burglar group, Bristol Prison
A group was run at HMP Bristol in 2004, following the Victim Impact Groups described above. A victim of burglary approached the project through Victim Support. She wanted to meet her offender. Unfortunately, he was no longer in Bristol Prison. However, the restorative justice coordinator met with her and her supporter from Victim Support to explain this and to explore what she had hoped to get out of such a meeting. She had a lot of general questions about offending behaviour, specifically related to drug use, so the coordinator asked if she felt it would be helpful to meet men who had committed similar crimes. She felt it would. The coordinator approached four men, all of whom had attended a Victim Impact Group. They were all very keen to take part, feeling that it was ‘an opportunity to help a victim’. One man was moved to another prison a few days later, leaving three to meet with the victim.

The victim came to look round the prison the week before the meeting, and had a number of preparatory discussions with the coordinator. She was told she would meet with three men, although two of them might be transferred at any time. The number was chosen to avoid the intensity of a one-to-one meeting, and to give her a number of different perspectives. More than three would have been too many.
Finding a suitable room in the prison was also tricky. The room needed adequate security for the three prisoners, yet some privacy too. A room in the Education Block seemed the most suitable. The restorative justice coordinator liaised with the education administrator, the prison wing officers, the security staff and a psychology assistant, to ensure that the men were unlocked, tea and coffee were available, and the room was empty, so that the victim could settle in first. Meanwhile the restorative justice coordinator was at the prison gate to meet the victim and her supporter from Victim Support, and escort them to the room.

The meeting went really well, despite all the participants being extremely nervous. The victim felt able to talk and take charge, and the men respected her right to do that. They talked very openly about their drug problems and crimes when she asked them to, and explained how they felt. She asked lots of questions and they responded as best they could. She asked about whether they blamed their victims for being in prison and they all said no. Indeed it seemed that this had never occurred to them. She was scared her attacker would come after her when he was out, and they gave their perspectives on how unlikely that was, given what she had told them. This seemed to reassure her. The meeting lasted about two hours with a short coffee break. The atmosphere lightened and everyone seemed to relax more as it went on. The men showed a great deal of kindness to the victim, and when she got very upset partway through, seemed to want to do anything they could to help her.

The victim rated the meeting in terms of satisfaction as ten out of ten. She felt she had achieved a greater understanding, and had been listened to. She was very glad she had come into the prison to meet with them. The restorative justice coordinator met the victim once after the meeting and spoke with her on the phone three times – to check out her feelings and whether there was anything else she needed. She asked if she could write to the men. The coordinator sought their permission and it was given. The victim sent them all separate notes thanking them for meeting her and wishing them well in the future.

The coordinator saw all the men individually and gave them the chance to talk through how the meeting had affected them. They all seemed delighted to receive a note from the victim and felt they would keep it to help them in the future. A couple still seemed greatly affected by how distressed she had been and showed enormous concern for her. The men felt honoured that they had been given the opportunity to meet her and help her in some way. They felt this was something tangible they could do to atone for their crimes. They also felt that it had really brought home to them the long-lasting effect of crime on some victims.

Victim–offender groups outside the UK

Victim–offender groups have been run in prisons in many parts of the world. The example below is a variation which includes members of the public as well as victims and offenders.
Case study: Citizens, victims and offenders restoring justice (USA)

At Washington State Reformatory, between 1997 and 2000, a restorative justice project ran five 14-week seminars on restorative justice, involving victims, offenders and citizens as participants. The courses dealt with issues such as:

- What is restorative justice?
- How can you repair the harm to victims?
- Is it possible to repair the harm from violent crimes?
- What does it mean for offenders to be held accountable for their crimes?
- What can they do in prison to repair the damage?
- What does the public want of their offenders?

Altogether 43 offenders, 29 victims and 25 citizens took part (i.e. about 20 participants per seminar). The offenders were serving long sentences up to life imprisonment, for murder, attempted murder, rape, robbery, burglary and drug offences. The victims had suffered, themselves or as family members, crimes of murder, rape, sexual assault, kidnap, aggravated assault, burglary and domestic violence.

The project was evaluated in detail. Key findings were that the seminar helped participants to:

- express feelings, needs and concerns about crime and justice issues
- understand each other better
- develop creative ideas and concrete actions to achieve justice and deal with crime.

(Helfgott et al. 2003)

More details of research results are given in Chapter 14.

Victim–offender mediation/conferencing

Victim–offender mediation and conferencing can take place in prisons and other secure settings, as long as there is support for offenders and a sensitive attitude towards victims. This sensitivity must include whether and how to contact victims in any particular case, and if victims come into prisons, ensuring that their visits are sensitively conducted.

Special cases

In the UK, victim–offender mediation has taken place in prisons on a sporadic basis for many years, often on the individual initiative of probation officers. The Home Office Restorative Justice Mapping Exercise in 2004 showed that 36 prisons reported a victim–offender meeting during the previous six months (Home Office 2004).
Some victims of serious offences have tried to meet their offenders to achieve a sense of closure. However, there were no formal arrangements for this, and they often had to struggle against bureaucracy and professionals who felt such a meeting could be unsettling for the offender.

**Case study: Murder**

One such victim was Lesley Moreland, whose daughter Ruth was murdered in 1990, stabbed to death with nearly 100 injuries. It was very difficult for Lesley to understand how anyone could do such a thing, especially as it turned out to be someone who had been a friend of Ruth’s ex-partner and had often gone to her for help and advice. The man had been on drugs and said he had lost control. It took from 1991 to late 1995 to arrange a meeting, even though the offender was remorseful and was willing to meet Lesley. There were frequent delays due to prison moves, hesitations from professionals working with the offender, and a decision to check with the Home Office. Lesley was very frustrated, as she felt that most of the official concern was for the offender rather than the victim.

In the end she did achieve a meeting with the man who had murdered her daughter. Lesley wrote about the meeting:

> On the train back to London, I felt drained and exhausted, not sure yet what the overall effect of the meeting had been. I did feel relieved. Relieved that at long last the meeting had taken place. Relieved that I had achieved the objective of meeting Andrew Steel [not his real name] and would now be able to see him as a person, rather than as a cardboard-cutout character identified only as a murderer. Relieved that he had been able to talk and that he had given an account of what had happened which tallied with the information I already had. He hadn’t resorted to lying: I felt he had done his best to give me the information I needed. He had said that he was sorry, and I hadn’t made that one of my expectations, so that was a bonus.

> There was also a sense of achievement that despite the many obstacles, I had got through the ‘system’ and achieved what I wanted. It had happened in a way which meant that if anyone else wanted to arrange a similar meeting in that prison, it should be easier for them and for the prison staff and offenders.

(Moreland 2001, p.194)

Towards the end of the meeting, the probation officer facilitating the meeting had asked Andrew how he was feeling. He had replied:

> Scared, ashamed, there is no ending. I’m glad you came. What pushed me more was to understand your feelings, what happened to you and your family. I’ve got to be able to understand that and never let anyone else go through that.

**Community-based services**

Where victim–offender mediation has been well established in the community (e.g. as a result of the Probation-led schemes in the 1990s and, currently, independent/community mediation services), approximately 20 to 25 per cent of cases have involved
prisoners, and often taken place in prisons. This is because offenders may be interviewed between conviction and sentence, and then get a prison sentence, or because they express a wish later in their sentence to meet their victim to apologise. Victims may also express a wish to communicate with or meet the perpetrators of the crimes against them, and they may be in prison. Letters, video messages, indirect mediation and face-to-face meetings can all be used. A case study in Chapter 8 describes a victim–offender mediation in prison undertaken by a community-based mediation service (pp.188–9).

And resettlement projects work across the prison and the community, as the Manchester Adult Restorative Justice Project did, also described in Chapter 8 (pp.189–93).

Young Offender Institutions
Several Young Offender Institutions (YOIs) are involved in victim–offender mediation and conferencing through restorative justice work carried out by Youth Offending Teams. So, for instance, Leeds Youth Offending Service undertakes cases where the offender is in a YOI, as does Torbay Youth Offending Team (Clark 2005; Greif 2005).

Case study: Young Offender Institution – burglary
A young offender was sentenced to a one-year Detention and Training Order (DTO) for burglary. The victim, who was pregnant at the time, was deeply distressed by the disruption the burglary had caused her and her partner – bags, camera and cards had been taken, including a bag with a photo scan of the baby. This was the hardest thing to come to terms with. Her other child of six was fearful that the burglars would return and take her photos as well.

The victim had a number of questions she wanted to ask the offender, and the victim liaison officer (VLO) contacted the Young Offender Institution and eventually persuaded them that a video conversation between the VLO and the young person was safe, helpful and appropriate. The video conversation lasted an hour and the young person said that he felt bad after hearing the details. He answered the victim’s questions, and it emerged that, once the valuables had been taken from the handbags, the bags had been secreted in a very isolated place. The VLO and the young person agreed that, on his release, they would go together and look for the bags, to see if the photo could be recovered. The victim was aware that this was only one chance in a million, but was encouraged by the offer and by the young person’s attitude.

There are further case studies describing indirect mediation with offenders in YOIs in Chapter 4.

The project described below is one where there was a systematic attempt to introduce mediation in a Young Offender Institution.

Brinsford Project
At HMYOI Brinsford, near Wolverhampton, a male young offender establishment, direct or indirect mediation took place between offenders and their actual victims. The
project ran from 1996 to 2006 in conjunction with Central Mediation Services,\(^3\) which had a dedicated mediator responsible for the provision of the service.

Probation and prison officers at the YOI referred offenders aged between 15 and 21 to the project if they felt they were suitable for mediation. There was also liaison with local Youth Offending Team caseworkers. Offences ranged from simple thefts to serious violence, and included most offences where there was an identifiable victim (Sandwell Mediation Service 2001).

**Case study: Prison mediation – collision with police car**

A group of young men were trying to steal a car, when police approached. The offenders (including Keith, the driver) got into a stolen car already in their possession and drove off at high speed, colliding with the police car. This resulted in serious leg and ankle injuries to both police officers. The offenders were arrested and given prison sentences.

Keith had time to think in prison. He knew the police officers had been injured, and he had read statements at court that said their careers with the police might be over. He spoke about this to his probation officer, who referred him to the victim–offender mediation project. As part of the process, Keith was asked to fill in a questionnaire about his reasons for committing the offence, his feelings about it, how he thought the victims might be affected and why he wanted contact to be made with the victims. He said it was panic that made him commit the offence; stress and lack of money also played a part in the background to the offence. He felt bad that he had injured someone, guilty and ashamed, and wanted to make amends somehow. He wanted to meet the victims to say sorry, to explain why he had done it, and to know what the victims felt. The mediation worker talked to Keith about the process and then contacted the police officers. One did not want to be involved. The other, the driver of the police car, PC Thomas, was initially very apprehensive, but after discussing it with his family and the mediation worker, he agreed to meet Keith.

They met in the prison (when Keith had been there 11 months), in the company of the mediation worker, in a rather unsuitable room, and were able to talk. Keith was surprised how calm the victim was. PC Thomas told Keith how his brother had died in a car accident in a similar vehicle a few years before. Keith felt even more how irresponsible he had been with lives at stake, and resolved to take more thought about what he did. Afterwards he wrote:

> The mediation was a mind-helping situation on both parts. It’s taken a lot of pressure off both of us to understand why it happened. I hope it put his mind to rest, knowing that I never meant to hurt him the way I did. Thanks to Peter for organising the process, more people would benefit from it in the long run.

PC Thomas also wrote to the mediation service, expressing his thanks:

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\(^3\) Formerly Sandwell Mediation Service.
Up until the meeting with Keith, there were a lot of questions that remained unanswered in my mind as to why he committed the offence in the first place. I have been a victim on several occasions and this is the first time that I have had the opportunity to partake in any such activity. I just wanted some simple answers and also to show him that I am a real person, not just a police officer in a uniform. I can now put the matter to the back of my mind and get on with my life. I would like some feedback as to how Keith perceived the meeting, and any other developments.

Probation Victim Liaison Service

Since 1991 there has been an obligation on the Probation Service (now part of the National Offender Management Service) to contact all victims of crimes of a sexual or violent nature, where the offender has a sentence of one year or more.

The purpose of the probation work with victims is to provide a victim-focused service to victims of sexual and violent offenders who are sentenced to a custodial sentence of 12 months or more. The role of local services is:

- to provide information to victims about the criminal justice process on an ongoing basis once an offender has been sentenced to a term of imprisonment of 12 months or more for a sexual or violent offence
- to provide the opportunity for victims to give their views on proposed conditions surrounding the offenders' release
- to inform the victims of any conditions of release which relate to contact with the victim
- to inform and seek the victim's agreement to any special victim protection arrangements which are proposed
- to receive and act upon information from victims and their families about breaches of release conditions.

(Home Office 2000)

This work is usually undertaken by special Victim Contact Units or Victim Liaison Units, which are part of the Probation Service. On occasion this work leads to indirect mediation or even direct mediation, as the victim may have questions to ask of the offender, for example about where they intend to live on release. Because of the increased interest in restorative justice, more victims are asking to meet with their offenders. A considerable number of victim liaison officers have been trained to do this work, and training for all areas is in progress (Tudor 2006). This should improve the situation encountered by Lesley Moreland and described by her above.

The two long case studies below were undertaken by trained mediators working in Victim Liaison/Contact Units. They show the sensitivity, length of time, safety issues and number of meetings involved before a face-to-face meeting between victim and offender was possible. And the outcomes show benefits that could not be achieved any other way.
Case study: Victim Contact Unit – death by dangerous driving

A young man of 26, Lee, had a habit of taking cars and driving them fast – he said he did this for relaxation when he felt tense. He had been in trouble many times for this, and had served several community and prison sentences. On the last occasion he stole a car as usual, but the steering wheel locked and he skidded into a row of shops, knocking over a woman in her sixties who was window shopping. She died instantly under the wheels of the car. Lee ran away in panic, but later gave himself up. He was given a prison sentence of seven years.

The Probation Service Victim Contact Unit visited the woman’s husband, as their statutory duty (see above). He was a broken man and wanted to know when Lee would be released, but nothing more about him. However, a few weeks later, the woman’s daughter, Sue, rang the VCU with some questions: ‘Does he really know what he’s done? Is he showing any remorse?’ In this Victim Contact Unit all the staff were trained in mediation skills, but at that stage Sue did not want them to contact Lee to ask. Several weeks later she made contact again, as she could not get over her mother’s death, feeling she had let her down in some way. This time the mediators visited her and she agreed they could make contact with Lee.

Meanwhile Lee in prison was proving difficult to manage, and was unlikely to be released early on any account. Prison staff said they could see no signs of remorse. The mediators asked Sue whether the issue of remorse really mattered to her. ‘Yes, it does,’ she said. So the mediators visited Lee in person. It took a while to get behind the ‘tough guy’ front and then it all poured out. He told the mediators about the trauma of opening the car door and seeing the woman dead under the wheels, panicking and running away, then giving himself up because he couldn’t live with it. The mediators returned to Sue to relay this information. She was very pleased to hear that he was remorseful and had given himself up – and wanted to meet him to hear it for herself.

Arrangements took some time. After thorough preparation for both, and ensuring that the prison conditions were safe and supportive, the mediators took Sue to meet Lee in prison. She started with, ‘I hate you. I can’t believe I’m sitting here talking to you. You killed my mother.’ She had brought photos of her mother and the grandchildren. She told Lee how devastated her father had been, how he had given up his business. Lee was quite shaken by all this, but managed to tell his story. One important bit for Sue was that her mother died instantly. Sue had been told that the hospital had tried to resuscitate her mother, and felt guilty at not getting to the hospital before she died. ‘So that’s why she was so cold when I touched her,’ she said.

Lee asked if there was anything he could do. All Sue wanted was to know that he would never do anything similar again. On the way back from the prison, she said, ‘That’s what Mum would have wanted to do. She’s had her say through me. Now she can rest.’

Lee’s behaviour in prison improved after the meeting. He said about the meeting, ‘It’s the only decent thing I’ve done.’ When he was released from prison, he got a job working for his uncle in a shop. He got into a couple of fights, but never missed his appointments with the Probation Service. He rode a bike and did not look at cars. He even helped local police with talks in schools, telling his story and warning young people against following suit.
Case study: Victim Liaison Unit – murder

This case study comes from another Victim Liaison Unit where the VLO had been trained in mediation skills.

Amanda (the VLO) first offered a visit to Paula, in 2002, to give her information about Lawrence, who had pleaded guilty to murdering her son, Carl. Paula declined this offer, as she felt it was too soon after his death and she was also waiting for the outcome of the trial of two co-defendants, who had pleaded not guilty. This trial took another year to come about and the co-defendants were acquitted.

Amanda contacted Paula again after the trial and they met in early 2003. Paula was very angry at the criminal justice system for what she perceived as a miscarriage of justice in the case of the two co-defendants. She was glad that Lawrence had pleaded guilty although she wondered why. She was consumed by thoughts of conspiracy theories about the men who she thought had ‘got away’ with the murder of her son and tortured herself with thoughts of her son’s last hours.

At this first meeting, Paula expressed a wish to know more about what happened on the night her son died. She had many questions to which she needed answers if she was to be able to begin to rebuild her life. After much discussion with Paula about what restorative justice could offer, and after putting forward all the pros and cons of the process, Paula decided that she would like to meet Lawrence. Paula felt she would prefer the meeting to take place sooner rather than later, even if this meant the meeting being held in a prison. Paula was also aware that Lawrence would have to agree to take part.

After meeting with both Paula and Lawrence, Amanda realised that they were the ones who would take this process forward, so determined were they to see this through. Initial discussions with the prison were very encouraging and Amanda had a good deal of support from the prison probation officer and prison lifer manager. The prison was keen to see this meeting take place and was very aware of the sensitivities for both Lawrence and Paula.

Over the course of the next 12 months, Amanda had 12 meetings with Paula or Lawrence. All the meetings with Lawrence took place in the prison and Amanda was given as much access to Lawrence as she needed. He was also offered support in between these visits, if he needed it. Amanda met Paula at her home where, over the next year, she spoke of the deep sense of the loss of her son.

Paula wrote a list of the questions she wished to ask Lawrence and also wrote a very moving, powerful piece about what she had suffered, from the moment she knew her son had died to the present. She wanted Lawrence to see this and he was very affected by it. At all times, it was important to both Paula and Lawrence that each knew what the other was thinking and what they wanted. Lawrence was consumed by guilt and wanted only what Paula wanted. For her part, Paula was very thoughtful towards Lawrence, not wishing to cause him pain needlessly. Much information passed between the two parties in this way during those months.
Much thought was given by all concerned to where and when the meeting would take place. Both Paula and Lawrence were understandably anxious but their resolve and commitment to a face-to-face meeting never wavered. The prison offered a variety of settings for the meeting, and eventually it was agreed that the probation department offices would be most suitable. A room was organised and planned for the meeting.

Paula and Lawrence finally met each other in late September 2004, some 12 months after Paula made her request. After such a long time and such hard work in the early stages, the meeting itself was almost an anti-climax for all concerned. The meeting lasted about 40 minutes and both Paula and Lawrence were exhausted afterwards, as was Amanda.

Both Paula and Lawrence wrote down their thoughts and feelings about the meeting. Lawrence wrote:

My reason for doing this was because I wanted to give something back. I was told that the victim’s mother more or less was stuck in one place and that made me feel worse than I already did. Then I heard how she wanted to meet me – at first I couldn’t believe that this was true. I couldn’t understand why she wanted to meet the person responsible for the death of her son. But I felt a sense of responsibility to her and if meeting her could help her move on, then that is what I would do.

All the meetings I had preparing with the VLO helped me out – it was important to prepare myself as much as possible. Because this was the biggest thing I ever did in my life.

The day of the meeting arrived and I never thought about calling it off, but I did think – what on earth was I doing? The meeting went well, very good. I listened to what the victim’s mother had to say. It was what I expected but I thought it would be her making me feel bad and small but she was more concerned with me knowing the effect of what my actions have done, and was interested in what I do in the future and not to make her son’s life be in vain. She was very understanding and made me feel more comfortable. To me it felt like a big guilt trip or weight has been lifted off me.

Paula wrote:

I met Lawrence face-to-face for the first time on September 29th 2004. I had last seen him at the trial in December 2002, mainly the back of his head. When I met Amanda, the VLO, we spoke about Carl’s death, the police involvement and questions four years on that I still had no answers to. She told me that she could arrange for me to meet with Lawrence so that I could get answers to these questions and she arranged a series of meetings with me and she met separately with Lawrence.

Before the meeting I visited the prison with Amanda and I was shown the room where the meeting would take place, so I would know what to expect. Eventually the day came and my fear was that we would not get there or that Lawrence would change his mind and not see me.

Sitting in the room I started worrying, then the door opened and Lawrence came in. The conversation gradually started – I asked him my questions which he answered. I told him about Carl – how alike we were in our ways, his wonderful sense of humour and what a humanitarian he was. The fact that my marriage had broken down because of the person I had become following his death. I told him I did not hate him, because I have strong feelings of what is right and he had owned up to his part in my son’s death. I asked Lawrence if he was truly sorry for what he
had done, if he would never re-offend again and if he would make something of his life – otherwise Carl would have suffered for nothing.

I stood up at the end of the meeting and held my hand out to Lawrence – he took my hands in his and kept saying over and over again how sorry he was. Going home in the car I felt as though every bit of energy had been drained from me. Around three days later I felt that, after four long years, I had received some closure on what had happened that night. I would urge anyone who is in similar circumstances to do what I have done.

Since the meeting each has written to the other once. Paula has considered perhaps writing again on a yearly basis to see how Lawrence is progressing; and he would like to let her know about his life and what he does when he eventually leaves prison. This meeting would not have been possible without the commitment of Paula, Lawrence and the VLO, and the support of the prison and its staff.

Government research project

One of the largest contributors to restorative justice in prisons in recent years has been the large government-funded research project described in Chapter 8 (pp.193–5). This was designed to evaluate restorative justice for adult offenders and their victims in serious cases, where many of the offenders would be in prison.

HMP Bullingdon

HMP Bullingdon was the main site for the Justice Research Consortium Thames Valley trial exploring the effectiveness of restorative conferencing with prisoners who received sentences for violent offences. The trial involved approaching prisoners and inviting them to take part in a restorative conference with their victims. Where the offender agreed to take part and was assessed as suitable, then the victim was approached and also invited to take part. Cases assessed as suitable were then randomly assigned to go ahead to a conference or to be part of a control group for comparison purposes. Both parties were made fully aware of the random assignment process at the outset. The responses of the participants were very favourable. Interim results can be found in Chapter 14, and the re-offending and long-term satisfaction rates will be available in 2007.

After the research phase, HMP Bullingdon continued to conduct conferences, albeit on a smaller scale. A restorative justice-trained prison officer assesses and selects prisoners to take part. He also takes on a few cases of prisoners who refer themselves and cases referred by other agencies. HMP Bullingdon has also been considering how restorative justice may be used in a more holistic approach to deal with issues, including bullying, prisoner adjudications, conflicts between prisoners and staff discipline and grievance issues (these issues are discussed in Chapter 10) (Emerson 2005).
Case study: Conference in prison – robbery at petrol station

Two brothers, both heroin users, went into a petrol station one night and forced the three staff to hand over the money from the till. The older brother held a knife to the female manager’s throat and told her that his brother had a gun. One staff member escaped and raised the alarm, and, although the men ran off, they were caught later. At the time of the conference, the older brother was in prison (sentenced to nearly four years) and the younger one was on remand awaiting sentencing.

The conference took place in prison and was attended by the two brothers, their aunt and all three victims. Preparation took place with all the participants. When they came together, everyone was very nervous – one of the victims was shaking and the offenders both stared at the floor. In the first stage of the conference the facilitator asked the offenders to give an account of the offence – they found it difficult and needed prompting.

The next stage was for the victims to explain how they had been affected, in the short and long term. The manager had been severely affected – she thought she was going to die, and since the offence had suffered from sleeplessness and extreme anxiety, requiring medication. She could not go out by herself and her relationship with her partner nearly ended because of the stress. She was also worried about possible retribution from the offenders when they were released. The two male victims were also traumatised by the offence, feeling helpless and guilty for not doing more to stop the offence and protect their colleague. All three victims lost their jobs when the petrol station closed because of all the thefts. The offenders’ aunt told the group of the effects of the offence on the rest of the family – the older brother had refused contact from the family because he felt too ashamed.

The offenders began to realise the extent of the suffering they had caused. They reassured the victims that they had not been singled out, and told them they had not had a gun, would not have harmed them and had no thoughts of retribution. They explained their circumstances before the offence, and this led to a greater understanding from the victims.

By this time everyone had become more relaxed and at ease with each other. The third part of the conference focused on how the harm done could be put right. The agreement contained an apology and ways in which the two brothers could prevent anything similar happening in future. At the end of the conference, the participants went into the corridor for a smoke and a coffee, and stayed talking informally for over an hour – something unthinkable before the conference.

After the conference the facilitator contacted all the participants. Both brothers were determined to go straight. The petrol station manager said the conference had been a life-changing experience – she no longer lived in fear and could now get on with her life.
Case study: An offender speaks about meeting his victim

Here is another offender’s account of the effect on him of meeting his victim:

Being an inmate, I did some thinking about how to change the way of life I lived, being in and out of prison from the age of 15. I was lucky to be involved with restorative justice in Bullyingdon Prison and met my victims. It gave me a new way of life and put me on the straight way.

Before I met my victims I did not realise what I had put other people through. You don’t think or see the hurt you cause when doing wrong. Meeting my victims was not nice. I was very worried before but willing to change and so went ahead with the meeting. My mum was there and being a good person it was not very nice for her to hear it all. I spoke about everything and did not think it could get any worse. I saw what pain I had caused in doing the things I had done. It gave me bad feelings from seeing things from the victims’ point of view. It had me in tears. It changed me and for the good. At the end of the meeting we all shook hands, had tea and a good chat.

Some days after I felt like a new man, ready for the real world again. I thought at the time my mum was going to kill me – just imagine your mum hearing all the bad things you had done. The way she looked at me I thought she was going to blow up. I felt so ashamed. I can just about imagine myself sitting there hearing the crime my son had done. It would not be nice especially as it was unexpected.

As a result of the meeting I write a letter each month to keep my victims up to date with what is happening. The experience with my mum has been the most serious thing for me. I have been telling other men in prison about the experience, but only if I think they are serious about wanting to change. Sadly not everyone is, despite the damage they have done.

Victim Offender Dialogue in the US

There has been a recent burgeoning of restorative justice programmes in prisons in the US, which have been replicated in several states. Among these are the Victim Offender Dialogue (VOD) programmes.

VODs are Corrections-based programmes for victims of serious violent crime and their offenders; they are based in the Victim Services department of the Department of Corrections. There have been independent groups doing this work (e.g. in Minnesota) but it seems to be generally acknowledged to be more effective working within the official Department of Corrections context.

The primary purpose of VOD is to facilitate and support the healing process of those victims and survivors of violent crime who request communication with the offender. A secondary purpose is to facilitate and support the healing process of perpetrators of violent crime.

VOD is a process, facilitated by specifically trained facilitators, which provides interested victims/survivors with an opportunity to meet the offender in a safe and structured setting. It is an opportunity for important assistance and compensation to
victims. The victim–offender communication is preceded by a period of preparation meetings during which the decision to meet, issues to be explored and the nature of the communication is clarified with all parties.

VOD relies on a base of victim–offender mediation skills, but is more emotionally intense, requires much longer preparation and usually involves negotiation with prison staff and regulations (Umbreit et al. 2003a, 2003b). The process is usually initiated by victims, and can have a profound healing effect for them, enabling them to get on with their lives after years of being stuck.

Some programmes have been running for many years (Iowa and Texas since 1993, Ohio since 1996, Minnesota since 1997, Pennsylvania since 1998); others are newer, initiated between 2000 and 2004. Texas (the first state-wide scheme) has completed 203 mediations, others rather fewer. Oregon has a surrogate VOD programme for cases of domestic violence/abuse. At the time of writing there are 18 states with a VOD programme, and Tennessee is finalising its policies. The full list is in Chapter 11 (Just Alternatives 2006).

Conclusion
Immarigeon wrote in 1994:

> Prison based victim–offender mediation is a powerful and practical method of healing some of the harm done by violent as well as non-violent crime. In Canada, the United Kingdom and the United States, hundreds of meetings have occurred without negative consequence. In fact, these meetings have been heralded by victims and offenders alike as a successful forum in which victims gain an important measure of control over events they did not fully understand and offenders learn firsthand the consequences of their past actions. (p.20)

Summary
This chapter has explored four aspects of prisoners making amends while in prison. Community Service projects help to put something back into the community in a variety of practical ways. Victim awareness courses help offenders to realise the harm they have done, and motivates them to avoid re-offending. Victim–offender groups provide opportunities for victims and offenders (not from the same crime) to share experiences and dialogue. Victim–offender mediation and conferencing allow victims to meet their actual offenders, tell their story and ask their questions; and offenders to do the same. The chapter includes some case studies of such meetings after very serious crimes. All the processes described can be very beneficial if undertaken by trained and experienced mediators or facilitators. The next chapter looks at restorative practices concerning relationships within prisons themselves.

4 ‘Surrogate’ means that in this programme the offender does not meet the actual victim, but another person: a friend of the victim, a victim supporter or a victim of a similar crime.
References


CHAPTER 10

Restorative Justice in Prisons 2
Relationships in the Prison Community

Introduction
The last chapter looked at ways in which prisoners can put right some of the harm they have done. This one looks at the contribution of restorative justice to relationships in prison, where conflict and offending often abound. Again, it draws on previous reports (Liebmann 2001, 2006; Liebmann and Braithwaite 1999), as well as new material.

In many ways some of the issues in prisons are similar to those in schools (see Chapter 6): they are closed communities, with their own sets of rules and sanctions, and power issues between those who manage prisons and the prisoners (and often also between prisoners). There is often an acceptance of prisons as being endemically violent places, but the difference between establishments shows that this need not necessarily be the case.

Much can be done in secure settings to improve relationships between inmates and to help them to sort out conflicts and differences in a constructive way. This can include conflict resolution, mediation and conferencing. Adjudications (discipline hearings in front of a governor, for offences and misdemeanours committed in prison) may also be dealt with using mediation or conferencing. There are also opportunities for staff to resolve differences and conflicts using mediation.

Some prisons aim to look at restorative justice as a total philosophy, including restorative ways of handling all incidents within a prison, as well as reaching out to offer restoration to victims and the community.

Conflicts in prisons
Research on conflicts and violence in prisons
In a two-year study (1998–2000) of prison conflicts between inmates, two researchers (Kimmitt Edgar and Carol Martin) investigated the background circumstances that led to 141 incidents – fights, assaults or other serious disputes between prisoners. They interviewed 209 prisoners who had recently been directly involved in such situations, as well as other inmate witnesses, staff members who had responded to fights or assaults, and adjudicating governors. In each case the researchers explored the conflict between the inmates through the participants’ perspectives on how the problem escalated. The
researchers worked in four prisons, chosen to reflect different types of prisoner and regime: young offenders, females, people on remand and long-term high-security prisoners.

The main dimensions of conflicts in prison were:

- **Interests.** What each person wanted out of the situation (including both material goods and non-material values such as honour or fairness).
- **Relationships.** The social distance between the parties involved – as strangers, associates or friends; any power imbalance; and the impact of the dispute on the way they saw each other.
- **Catalysts.** The tactics each used to deal with the problem between them – including verbal (e.g. accusations, threats and challenges), body language (e.g. hostile gestures) and invasions of personal space.
- **Interpretations.** The inferences each made about the behaviour and intention of the other parties in the interaction.
- **Purposes.** The objectives that prisoners who used force believed it would achieve.
- **Social context.** The influence of the prison environment on the dispute.

(Edgar, Martin and O’Donnell 2002, p.102)

The researchers analysed incidents involving these dimensions to see how they contributed to conflicts escalating into violence. They found that the ways prisoners dealt with conflicts were a major contributor to fights and assaults. The conclusions from this study suggest that:

- mediation should be explored as a means of preventing fights by negotiating conflicts
- restorative conferencing should be developed as the most suitable way of healing the damage after fights occur.

(Edgar and Newell 2006, p.67)

**Restorative justice and bullying**

Bullying has been defined as a relationship in which one person establishes dominance over another through intimidation, and exploits that domination persistently. It is known to be endemic in prisons, and every prison now has an anti-bullying policy. However, many of these policies emphasise identifying the bully and then dealing sternly with him or her. The problem here is that prisoners who have been identified as bullies often deny it; they feel that there has been *mutual* harm, for which they are being held totally responsible. And many anti-bullying policies confirm the weakness of the victim and the principle that differences are settled by superior force. In these circum-
stances victims of bullying are often reticent about reporting bullying because they fear reprisals which will only make matters worse.

A restorative conference provides a better alternative. Conferences empower the person who was harmed by listening to their perspective. The prison does not decide what the victim needs; rather, the victim has the chance to express what they would like to happen. The conference also demonstrates that the person who was harmed has a wider community of support. This is crucial because being able to turn to others is one of the most effective ways of countering bullying (which thrives on isolating people from others).

The power of restorative justice to focus on harm rather than guilt is helpful, because it brings the perpetrator face to face with the emotional damage they have caused, making a clear distinction between his behaviour and his status as a person. The conference assumes that the person agrees that the harm they caused is wrong and will want to do whatever is possible to make amends. Although many prisoners will deny or minimise the harm done, facing the victim makes this more difficult. It also helps to clear up misunderstandings which sometimes fuel conflicts (Edgar and Newell 2006).

Restorative anti-bullying procedure at a Secure Training Centre

Restorative justice was introduced at Medway Secure Training Centre (STC) in 2004, through a review of their anti-bullying policy and procedure. The support of the centre director enabled staff to introduce and implement restorative justice very quickly.

Staff recognised Medway STC (which caters for young people aged 12–17, boys and girls, in a secure environment) as a community in which relationships are important. Restorative justice can provide a supportive framework for those relationships while holding people accountable for their behaviour, particularly any action which causes harm to other people.

In terms of an anti-bullying strategy, restorative justice can be used for conflict resolution as it attempts to restore the relationship and repair the harm after an offence or incident where one person (or more) has hurt another. The process of resolving the conflict must be considered as fair and just by all participants in order to provide the justice element.

Ten restorative justice facilitators were trained by external trainers (staff from Rainsbrook STC also received training). Other staff throughout the centre were then trained in the principles of restorative justice and the new anti-bullying policy and procedure. This procedure includes a monitoring phase and a formal bullying assessment; a restorative conference can be used at any stage if seen as appropriate. In 2005, out of 52 bullying incidents, 24 were resolved through restorative conferences.

One facet noted during the training was the potential for restorative approaches to reduce the need for use of physical intervention in the secure setting. In addition, they have used restorative discussions with young people after incidents in which they had to be physically controlled, to help young people consider the impact on themselves and others, and develop a support plan to prevent further occurrences.

Their vision for restorative justice has three phases:
Phase 1: Working with incidents between young people
Phase 2: Working with incidents involving young people and members of staff
Phase 3: Bringing the victim (who is external to the STC) of the offence together with the perpetrator (young people placed at Medway STC).

They plan to train more restorative justice facilitators and would also like to train some young people to co-facilitate restorative justice conferences. The aim is to create a restorative culture. An indication that they are beginning to achieve this is that young people now ask for conferences themselves: ‘Can we have one of those meetings?’ (Roos 2006a, 2006b; Webster 2006).

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**Case study: Secure Training Centre – assault and possible bullying**

**Background information**

An incident occurred in which Benita assaulted Sarah. As a result, Benita was immediately moved to another living unit. Sarah said she wanted the police to be informed of the assault, so this was done, but later she changed her mind and decided she no longer wanted to involve them. Meanwhile Benita was not allowed to associate with Sarah, and had to follow a separate activity schedule on her own every day.

After Sarah had made her decision not to involve the police, a member of staff, John, spoke to her to see how she felt about the assault. He asked Sarah to describe what had happened on the day she was assaulted. Sarah said that she was in the day room at about 8.15 in the morning. Benita came out of her room and accused Sarah of shouting in her bedroom and keeping her awake, and then punched Sarah on the side of her head. Sarah said she did not want to pursue the matter any more, as she felt sorry for Benita, seeing her on her own every day. Also Benita had apologised to her for hitting her.

John asked Sarah if Benita had tried to persuade her to drop charges against her (to check for bullying or intimidation). Sarah said it was her own decision. John asked her how she would feel about meeting with Benita to discuss the incident, so as to resolve any outstanding issues between them. Sarah said that she would be happy to do this.

John then spoke to Benita, who gave a similar account of the incident and said that she realised that she had been wrong to punch Sarah. John asked Benita if she was prepared to take part in a meeting with Sarah to discuss the incident and Sarah’s feelings. Benita agreed.

**Meeting**

John met with the two young people in the chapel to discuss their feelings about the incident. Sarah said she had been upset at the time, but now wanted to forget about it.

Benita said she realised that she was in the wrong, and had apologised to Sarah. She recognised that she had a hot temper, but said she always calmed down quickly and never held a grudge against anyone. She felt that the situation had been made worse by staff
moving her to another living unit, as she felt sure that things would have been resolved more quickly if she had been allowed to remain on the unit with Sarah.

John asked Benita if she was aware that, although she might get over this situation quickly, it would almost certainly be more difficult for the person harmed by her actions. Benita agreed that this was true. John explained that the staff had a responsibility to make sure that young people were safe and this was the reason for her unit move.

John acknowledged the apology and Sarah confirmed that she was satisfied with this as a resolution to the situation. John also checked whether Sarah felt comfortable about mixing with Benita during activities, and she was happy about this, so Benita could return to her normal activity schedule from the next day. Both young people were thanked for taking part in this meeting before being taken back to their respective living units.

Mediation for prison offences and disputes

Adjudications

Prisons are large communities, so crimes occur inside them as well as outside. There is a well-developed prison system called ‘adjudications’ for dealing with such incidents. Offenders are charged and appear before the governor, who makes a judgement and decides the penalty within strict rules of procedure.

Several prisons have been working on plans to use restorative conferencing for adjudications, for example HMPs Brixton, Bullingdon and Grendon (all in England and for adult males), HMP and YOI Swinfen Hall (in England, for adults and young males), HMP and YOI Cornton Vale (in Scotland, for adult females), HMYOI Huntercombe and HMYOI Ashfield (both in England, for juvenile males). The main difficulties so far have been implementing restorative processes within the tight timescale required by adjudications.

Case study: Adjudications – resolving a fight

At HMYOI Huntercombe (a juvenile establishment), restorative conferencing is being used on a one-to-one basis for resolving conflict amongst the young prisoners. Twelve staff were trained in restorative conferencing to do this work.

Two young men were on adjudications for fighting each other. The adjudicating governor established first that this might be a suitable case for the use of restorative justice and agreed to adjudicate the two cases in the room at the same time. The two prisoners knew one another ‘on the out’ and a third party had apparently told one of them that the other had been ‘bad-mouthing’ him and his relatives. This had resulted in a fight between the two boys on report. The process enabled both parties to realise that the fight had been about comments reported by a third party that were in all probability untrue, and most likely a ‘set-up’ for the express purpose of provoking bad feeling between them.
Having both parties to the fight in the adjudication room at the same time helped each prisoner to realise the perception of the other at the time of the fight. It also prevented misunderstandings of what each party had said to any other parties involved, thus preventing further escalation of ill feeling.

Resolving conflicts

HMYOI Ashfield, catering for young men aged between 15 and 18 years, found out about restorative justice at a conference and within four months had trained 16 restorative conference facilitators (including two young people who were inmates) and undertaken 45 cases. The prison explains the scheme in an hour-long session for all new inmates during their induction.

In cases of conflict or bullying, staff offer a restorative meeting – about half of young people accept this offer, and as time has gone on, many of them ask for it themselves. If the restorative meeting is successful, the conference facilitator writes to the controller to ask that the restorative meeting is taken into consideration during adjudication. To date the controller has dismissed those cases where restorative justice has taken place. Those who take part in restorative meetings mostly prefer them to adjudications, as the matter is resolved. The prison also runs meetings for prisoners and their victims who come into the prison.

**Case study: Staff/inmate conflict resolved**

Brian (aged 17) was larking about with a library orderly (another inmate whose job it was to work in the library checking out books). The librarian (Sheila) told Brian off, and he went off in a huff and made an official complaint against Sheila. From that date, he ‘blanked’ Sheila, and wouldn’t speak to her, which she found quite unsettling, as previously they had had a good relationship. After a while it was suggested by her line manager that she should ask for a restorative meeting with Brian. It was facilitated by one staff restorative justice facilitator.

Sheila explained that she was only doing her job, preserving peace and quiet in the library for the sake of everyone using it. Brian then explained why he was larking about. He told her that the library orderly was the only inmate in the prison who knew what Brian’s offence was (it was a serious one), so he was the only person he could feel really free with, and have a laugh and a joke. The librarian offered to help by allowing the orderly to go off for ten minutes to be with Brian, whenever Brian came into the library – that way they could have some time together without disturbing others. Brian apologised for putting in the complaint, saying he had done it in the heat of the moment, and thanked Sheila for being so understanding concerning the situation.

At HMP and YOI Swinfen Hall, staff use restorative justice to resolve a variety of offences and difficulties. The case studies below involve young offenders aged 18–21:
Case study: Disruptive behaviour in prison

This case originated from complaints regarding Matthew’s disruptive behaviour affecting others’ sleep and general well-being. The restorative intervention was a full meeting in the Association Room with a total of ten prisoners (all of whom were accommodated near Matthew’s cell) and Matthew himself. Everyone expressed their grievances in the hope that Matthew would realise the impact of his conduct on others. These turned into constructive complaints and suggestions as to how Matthew could cope with the rest of his sentence. The staff were surprised by everyone’s positive attitude and approach to the situation.

Case study: Alleged assaults on a lifer unit

Two lifer prisoners were placed on report for alleged assaults. They were brought together to warn them of the possible consequences of their actions as lifers, and to discuss better ways of conflict resolution. They were happy to try these and put the matter behind them and get on with their sentences. Everyone felt that a better conclusion had been reached than could have been achieved by adjudication.

Peer mediation1 training in Portland Young Offender Institution

In 2004/5, mediation trainers from Mediation Dorset trained two groups of young offenders in mediation skills. The offenders were aged 18–21, though many of them had reading ages of 8–12 years. This initiative came about through one of the prison wing counsellors who was a trustee for Mediation Dorset. The programme started with a two-hour taster session to give inmates enough information to make a choice whether to participate. Mediation Dorset also asked for the commitment of at least one member of staff with each group, so that staff were aware of the content of the training, and so that there would be someone to oversee the mediation service after the training.

Each group started with 12 trainees plus one staff member. The training sessions assumed that the participants had all done a three-session course on listening skills, and that participation was voluntary. (In one group, participants had been told that their participation would affect their parole, so the trainers had to re-emphasise the voluntary aspect and allow four reluctant participants to leave.)

The course started by establishing group ground rules. Self-esteem work was built into every session because their self-esteem was generally very low. The course content was as follows:

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1 See Chapter 6, pp.124–5, for an explanation of peer mediation.
Session 1: Pre-course questionnaire
   Exploring what conflict means
   Looking at what escalates and de-escalates a conflict
   Defining mediation
   Introduction of mediation ground rules

Session 2: Introduction of the mediation process
   Understanding what ground rules are used for and why they are important
   Building a feelings vocabulary
   Negative and positive behaviours that can result from conflict

Session 3: Demonstrating the mediation process through video and role play
   Looking at how the mediator’s role is shared
   Assessing personal skills
   Consideration of the views and needs of others
   Mid-course evaluation

Session 4: Defining mediable issues
   Continued role plays to explore the mediation process
   Bias and prejudice
   Red flags – what triggers intolerance in the mediator
   Anger worksheets
   Conflict observation

Session 5: Role plays in context
   Strategies for dealing with difficult behaviour
   Staying neutral
   Revision of course material, checking for areas of concern, i.e. when not to mediate, as well as individual problems arising

Session 6: Stuck moments and blocks to mediation
   How they are going to promote the service
   Safe practice
   End-of-course evaluation

The young people were very enthusiastic and keen to put their skills into practice, especially on release. The planned mediation service proved too difficult to organise, but the unit intended that the skills would be put to use in encounter group situations and informally, where the mediators identified a person with a problem – particularly issues of minor bullying. After the course staff observed those who had been trained using their skills in subtle ways in their interactions with others. This led to the staff requesting and attending a three-day course in mediation skills, which they found very useful.

There were many obstacles to this work, for example:

- the frequent movement of prisoners to other prisons
• finding an inclusive time for the course to suit all religions (e.g. to observe Ramadan)
• providing extra sessions for those with poor listening skills
• the culture of ‘dominance’ in prisons
• difficulties in talking about feelings
• difficulties in creating a safe atmosphere free of fear.

However, the success of these courses showed that it is possible to work on these, with the backing of the institution (Craven Webster 2005).

Juvenile Correctional Institution in Serbia

Another prison institution to have implemented mediation to resolve internal conflicts is the Juvenile Correctional Institution in Krusevac (JCIK), Serbia, which caters for young people between the ages of 14 and 18 (mostly boys and young men, but also a few girls and young women in a separate section). This scheme is part of a larger restorative justice project with five pilot sites, four in the community and one in the JCIK.

In any such institution, conflict and bullying are perennial problems. The JCIK had implemented conventional punishment measures, but staff were aware that it was not always clear who was the victim and who was the offender. They were eager to learn mediation skills as a more constructive way forward, which might resolve some of the disputes rather than just suppress them temporarily by punishment.

In September 2003 a group of 23 staff undertook a five-day training course in victim–offender mediation. A cross-section of staff was included – managers, personal officers, security officers, teachers and vocational instructors – to gain acceptance within the whole institution. The mediation service was established in October 2003 and became operational in February 2004. About 12 cases were referred during the first six months, of which several were resolved successfully (Hrnčić, Pavlovic and Milosavljevic 2004, 2005).

Case study: Bullying in the Juvenile Correctional Institution (Serbia)

This case study is related by the mediator.

Characteristics of the case

This case happened between two adolescent boys. The conflict lasted ten days and kept repeating on a daily basis. It is interesting that the offender was two years younger than the victim, and that his physical constitution was much weaker. Nevertheless, he continually teased, provoked and verbally maltreated his victim. It threatened to grow into something more serious, especially since the victim was a new inmate, surrounded by boys of this type for the first time, which produced considerable strain and also destabilised him.
We first dealt with this case according to the regular procedures at the institution. Individual meetings were held with both boys, explaining to both of them separately the position and condition of the other. Special attempts were made to awaken the offender’s feelings for the victim, to help him understand the victim’s position; while on the other side, I explained to the victim what type of boy he was dealing with, and what might be the motivations for his hostile behaviour. It helped only temporarily, but did not resolve the problem in the long run, and the situation continued. The victim was desperate and felt that the aggression against him was personal.

It seemed that there was no way out, and we decided to offer them an alternative method of resolving the conflict – mediation. I was happy to use mediation in this case, having in mind the balance of power, as both boys were going through a period of adjustment and accommodation to the institution’s requirements; this, to a certain extent, placed them in an equal position. The boys knew about mediation, so understood what was being offered.

The mediation process

The interview was conducted with the offender first. The boy, who had suffered emotionally in his childhood, growing up with no love and affection, and mentally unstable, reacted violently at first, as he usually did, saying that he had nothing to talk about to the victim. Being aware of this side of his character, I waited till he calmed down, and explained to him the advantages of this way of problem-solving, i.e. resolving the actual conflict. He accepted immediately.

After that, the interview with the victim took place. He could not wait to solve the problem and also accepted mediation immediately. He was a boy capable of talking openly about issues bothering him and could express his feelings well.

Mediation took place straight after the individual meetings. I was the sole mediator for the case. The boys were sitting facing each other, separated by a desk. I sat closer to the offender, knowing that he was likely to act out, rashly, abruptly and thoughtlessly. The victim started to talk first. He explained the main reason he was upset, and how he felt ‘in his heart’ when the boy sitting opposite was abusing him. I watched the offender’s reaction. First the colour of his face changed, then his chin trembled and his face muscles contracted. His breathing accelerated. It looked as if he was going into a hysterical crisis, so I touched him on the shoulder, telling him that everything would be OK. At that moment, he started to sob, and all the sorrow and misery of his life poured out uncontrollably. While he was sobbing inconsolably, I looked at the victim. His face showed an abundance of emotions: astonishment, dismay, fear, sympathy, sorrow. He could not believe what he was witnessing, that the offender had turned, in front of his eyes, into a boy who was anything but aggressor and offender. Some time later, the passions soothed. An agreement was made, and they both signed it.

The agreement and outcome

The offender did not apologise, but the agreement included promises that verbal provocations would not be repeated while the offender was in the institution. The agreement was followed up by personal officers and had not been broken at the time of writing.

On our way out, the victim approached me, saying: ‘Officer, I cannot be cross with him any more, no matter what he does to me. I didn’t know he was so miserable.’ That is
how this mediation ended. I could not avoid the feeling of sympathy and sorrow myself, though I have got used to various situations, after being on the staff in the institution for a long time.

**Comment**

What was important in this case was the victim’s perception. It was his perception that he was not the main actor in this story, and that he was chosen to be the object of verbal provocation only by chance. He realised that it was more the problem of the offender and he had understanding for his sorrow, his misery and his needs. Even if the offender himself did not learn very much about constructive problem-solving, the mediation was a success because the victim understood his position of being chosen by accident.

Once again, I saw proof of the fact that indirect explanation of other people’s feelings does not have the same power of apprehension, understanding and empathy, as an authentic session of exchanging feelings. All talk about the feelings of the other are insignificant, until the moment you see it with your own eyes and experience it. And, once again, the victim had understanding for the offender and his motives, recognising that the offensive behaviour was not caused by external but internal factors. They originated in the offender’s need to take out his frustrations, which had accumulated for years.

**Prison staff mediation services**

Both the Prison Service in England and Wales, and the Scottish Prison Service, have developed a mediation service to help resolve conflict and disputes between staff at all levels. It is open to all employees and provides a confidential, informal, non-adversarial service. It is especially suitable for issues such as personality clashes, disputes over roles or disagreements over work style or behaviour. Members of staff who volunteered undertook an intensive six-day course to train as mediators, and mediate in pairs (to gain experience) in prisons other than their own. In England and Wales, the service is run by the Staff Care and Welfare Service; in Scotland by the Equality and Diversity team.

The main benefits of such a mediation service are that it:

- assists the development of better communication
- gives a greater understanding of colleagues’ abilities and potential
- encourages personal ownership of behaviour
- helps to identify constructive ways of resolving conflict
- prevents the escalation of problems
- minimises the cost of conflict in terms of employee absence and management investigation time.

In England and Wales the service has about 25 mediators and dealt with 40 requests in 2005–2006, of which 23 led to a full mediation. All had a degree of success — some resulted in improved understanding and communication, while some established or re-established a warm ongoing friendship.
The Scottish service has 18 mediators (from a mixture of grades and roles) and has dealt with 80 mediations in four years, of which 20 were held in 2005. About 80 per cent of the mediations were successful. The majority of enquiries come from human resources departments, but the service is trying to raise awareness of what it can offer to individuals in conflict situations (Crawley 2001; Prison Service England and Wales 2006; Scottish Prison Service 2006).

One prison (HMP Whitemoor) has developed its own mediation service, particularly for conflict between staff members. Staff at different levels are involved so that the whole prison is committed to it. The training in mediation has helped staff to mediate conflicts and has also changed their approach to other managerial work. The prison is developing a training programme for prison officers to deliver mediation as an everyday activity in the prison (Bennett 2006).

Building relationships in prison
Communities of restoration: APAC

These are prison communities in which whole prisons are run along restorative lines. The whole prison is based on a philosophy of Christian love, and offers a ‘whole-life’ community experience based on Christian values. Living in a community exposes inmates to the views and experiences of others, which can be quite challenging. It uses a variety of methods, such as pro-social modelling, group work, discussions and meetings, as well as the main learning experience of community living. Families are seen as very important and are involved in the work with offenders. The first of these ran in Brazil (APAC is the acronym for the Portuguese name for this kind of community) where APAC took over a whole prison and ran it just with volunteers and the inmates. In other countries paid staff still run the prison, but a large number of Christian volunteers are involved.

Victims have not been involved, but recently (in response to requests by prisoners) APAC leaders have been exploring ways in which prisoners can be helped to use their new sense of responsibility to respond to their victims’ needs.

Research in one APAC prison showed that the recidivism rate was 16 per cent compared to the more usual 50–70 per cent.

In 2006, country branches of Prison Fellowship International were running APAC-style communities in prisons in the following countries:

- Argentina
- Australia
- Bolivia
- Brazil
- Bulgaria
- Chile
- Costa Rica
• Ecuador
• England and Wales
• Germany
• Latvia
• New Zealand
• Singapore
• USA.

Other countries working towards implementation are Norway and Scotland (Prison Fellowship International 2006; Van Ness 2005).

Below are two national examples of such communities.

Challenge to change – Kainos Community (England and Wales)

Kainos Community was set up in 1999 to run a community-based programme in prisons to address offending behaviour. The programme currently operates in a number of prisons nationally (HMP The Verne, HMP Swaleside, HMP Stocken) with further plans to expand. The programme helps prisoners to support one another in a positive way, challenging the general prison culture of bullying, intimidation and violence. It does this by offering a ‘whole-life’ community experience based on respect and moral values. Living in a community exposes prisoners to the views and experiences of others, which can be quite challenging. The programme is accredited under Prison Service Order (PSO) 4350 and provides four main interventions:

• community living
• focus
• interpersonal relationships
• citizenship.

The project uses the following methods of delivery:

• pro-social modelling
• group work
• discussions
• meetings.

These aim to address the following aspects of offending behaviour:

• interpersonal relationships/relating
• self-management and decision-making

2 Kainos means ‘new beginning’.
• anti-social attitudes and offence-supportive beliefs
• emotional management and functioning.

The Kainos programme is run either as a six-month full-time programme or as a 12-month rolling programme for 30 to 72 participants. It is run in three phases:

1. Induction phase (four weeks).
2. Main phase (18 weeks): focus on social learning and encouraging victim empathy.
3. Evaluation phase (four weeks): evaluation and a bridge to putting things into practice after the programme.

Case study: Kainos Community in one prison

Over the period following its introduction (1999–2003), the number of adjudications for prisoners on D Wing (the Kainos Community) at HMP The Verne dropped from about 20 per cent of the prison’s total to about 5 per cent. Mike Cook, governor of HMP The Verne, wrote:

As a governor who ‘inherited’ the Kainos Community some four years ago, I never cease to be amazed at the impact it has had at The Verne. As a prison practitioner of more than a few years’ standing, I have always been immensely impressed by the change I see in prisoners who live within the community. They respect themselves, they respect their peers and they respect staff both within the community and throughout the establishment. D Wing was a centre for prisoner unrest. Fights, assaults and attacks on the fabric were the norm – such events are now virtually non-existent.

(Philips 2005; Wilson-Fraser 2006)

Case study: Restorative Unit in a Canadian prison

A Restorative Justice Unit ran from 2001 to 2005 in Grande Cache Institution, a medium security prison in western Canada. It arose out of an inmate initiative following participation in a programme called ‘Making Things Right’, in which a prison officer invited guest speakers into the prison for discussions on restorative justice. These discussions continued during the existence of the Restorative Justice Unit. Both staff and prisoners received training in restorative values and practices, and all incidents and disciplinary issues were resolved using a restorative model. These included disputes and conflicts between staff, between prisoners and between prisoners and staff. Prisoners were also encouraged to reflect on their crimes from a restorative perspective, to consider the harm they caused others. The unit was closed in November 2005 for operational reasons following a change of management. An evaluation showed that:
offenders were more oriented to addressing issues related to remorse, responsibility and empathy for their victims

• the unit experienced fewer problems than the rest of the prison, and these were resolved using restorative approaches

• there was a strong sense of community between inmates, and this extended also to staff.

(Forget 2005; Harris 2006)

Prison therapeutic communities
The best-known prison therapeutic community is HMP Grendon, where men who have committed serious offences (and are mostly considered to have dangerous severe personality disorders) work on their offences and their relationships through group therapy. It is a very intense regime and produces positive results.

There are up to 235 inmates in Grendon, in Cat B\(^3\) secure conditions, and each of the six wings operates as an autonomous therapeutic community.

The programme is based on therapeutic community principles, where a dedicated multidisciplinary team of staff works together with prisoners, in an atmosphere where attitudes and expressions that would not normally be tolerated in prison (e.g. arguing with or challenging staff) are accepted and used to give feedback to prisoners. This therapeutic dialogue leads to prisoners’ greater understanding of their usual behaviour. Grendon aims to help prisoners develop more positive relationships, to change how they relate to others and to reduce their risk of re-offending.

Following from the success of Grendon Prison, therapeutic communities have been set up in several other prisons: HMP Dovegate (adult male), HMP Send (adult female), and small units at HMP Gartree (adult male), HMP Blundeston (adult male), HMP Bullingdon (adult male, drug rehabilitation) and HMYOI Aylesbury (young offender, male) (Association of Therapeutic Communities 2006; HM Prison Service 2006; Newell 2006).

Alternatives to Violence Project
The Alternatives to Violence Project (AVP) has been mentioned in Chapter 1 and described briefly in Chapter 3. It began in 1975 in a New York prison, when, following a riot during which men had been killed, prisoners asked Quakers to help them learn skills to counter the increasing levels of violence within prisons. Since then AVP (now independent from the Quakers but still retaining links) has spread all over the world, and runs workshops in prisons and the community.

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\(^3\) Adult male prisons are graded into four categories based on security, Cat A being the most secure, Cat D the least secure (open prisons).
Underlying the workshops is the belief that inside everyone is the creative power to transform violent situations, called ‘Transforming Power’. This is achieved by affirmation of all, building trust and community, and learning conflict resolution skills. Workshops usually run over three days and a typical workshop will be led by three or four facilitators, with about 12 to 16 participants. Key features of AVP workshops are that all attendance is voluntary, the facilitators (also volunteers) always work as a group and model behaviour by cooperative training and by participating in the exercises, the agenda is continuously amended from participants’ feedback, and emotionally demanding exercises are interspersed with active games to lighten the atmosphere and help build community.

AVP workshops are at three levels:

**Level 1:**
Covers building self-esteem, affirmation, trust and cooperation; exploring methods of communication; learning about creative resolution of conflicts.

**Level 2:**
Focuses on the underlying causes of violence, such as fear, anger, stereotyping, power and powerlessness; and a deeper look at ways of resolving conflicts, including communication and forgiveness. These workshops start by involving participants in choosing the focus of the workshop.

**Level 3:** Training for facilitators. This workshop teaches the skills needed to help run workshops.

This structure enables people to progress from being a participant to being a facilitator, and there are prison AVP facilitators as well as community-based ones (Alternatives to Violence Project 2001).

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**Case study: AVP workshop in a local prison**

There were four facilitators for this workshop, three women and one man, with different degrees of experience. The workshop took place over three weekdays when the ‘drug wing’ (for prisoners trying to get off drugs) could accommodate visitors. Nine prisoners volunteered. The facilitators prepared the agenda for the first day, and worked on the agenda for the following days each evening.

We included the following exercises:

- What is AVP?
- Name game (to get to know everyone’s names).
- Affirmation exercise.
- What is violence?
- Listening exercise.
- ‘A conflict I solved non-violently.’
- Underlying anger.
• Turning points in conflicts solved.
• Transforming power.
• I-messages (similar to Nonviolent Communication; see Chapter 3).
• Empathy exercise.
• ‘What I’ve learnt from this workshop.’
• Where do we go from here?
• Written evaluations and certificates of attendance.

And of course, lots of games.

One exercise, ‘Underlying anger’, helped participants to look at the hurts, needs and fears which lay underneath their anger. Here is one person’s response:

Anger: I felt angry and pissed off at being back in jail so soon after getting out.
Hurt: I felt hurt for the work I’d put in on my previous sentence, and for my family who believed in me.
Needs: I needed to listen more to what was said to me concerning my recovery.
Fear: Fear of failure.

At the end of the course, several participants said how much the course had meant to them, especially the fact that we had joined in with them and were with them. They had found the non-judgemental attitude helpful, as, on many of the prison courses, they felt they were being preached at.

These examples show how AVP can prepare offenders and others to handle situations better and avoid creating further victims. Many AVP inmate participants have reported dealing with conflicts in prison in a different way after these courses (Bitel et al. 1998).

Restorative prisons

The concept of restorative prisons

Some prisons have been working their way towards a restorative philosophy, in which they try to implement several of the elements mentioned in this and the previous chapter. This means looking at all aspects of the way a prison operates and ensuring it does so in a restorative way. Restorative justice becomes a total philosophy informing all their activities. (This does not mean, however, that the most restorative thing is to send people to prison. It means making the most of things when people have to be locked up.) HMP Bullingdon was mentioned in Chapter 9 in this respect, and several of the examples given in this chapter show prisons working towards a restorative culture.

Kimmett Edgar and Tim Newell (2006) outline and describe the core values of restorative justice:

• healing
• voluntarism
They say the first step in promoting the use of restorative justice in prisons is to deepen the understanding of these core values – ‘what really matters in the philosophy’.

So it is not enough to have a single project to demonstrate ‘look how restorative we are’ – rather, a prison needs to look at all ways it can fulfil the values. So a ‘restorative prison’ would include as many as possible of the following:

- Restorative operational styles – using mediation and conflict resolution within the prison community to make it a safer place, where constructive work can be done.
- Meeting victims’ needs – if they wish to be involved and proper care is taken.
- Victim empathy – developed through courses and sometimes with the help of Victim Support.
- Victim–offender groups; for instance, through Sycamore Tree (see Chapter 9, pp.208–12) and other similar projects.
- Building links with Victim Support.
- Reparation to the community, through charity workshops (such as those organised by the Inside Out Trust – see Chapter 9, pp.201–4), inviting the community into the prison, or going out to the community.
- Restoration of offenders, through programmes which encourage them to take responsibility for themselves and their lives in the future.
- Partnership with the local community in all the above.

(quoted from Newell 2001)

One prison’s move towards a restorative culture: HMP and YOI Cornton Vale

HMP and YOI Cornton Vale is pioneering the idea of a ‘restorative prison’. In April 2003 Sue Brookes, the governor of HMP and YOI Cornton Vale (the only women’s prison in Scotland), and Dan Gunn, Deputy Director of Prisons, initiated the idea of restorative justice in the prison. Training took place in March 2004, to introduce the values of restorative justice and to train staff to facilitate a number of restorative practices, such as restorative meetings, conferences and circles. These were designed to address breaches of rules and offences in prison, both minor infractions and more...
serious incidents which might warrant formal proceedings, such as the Orderly Room (the Scottish equivalent of adjudications).

About 50 Cornton Vale residential staff were trained, and during the year following, they dealt with 25 Orderly Room incidents (mainly fights and bullying) in a restorative way. For more minor events staff engaged prisoners in restorative conversations. Further awareness training was carried out in the prison and restorative practices were included in new staff induction. Prisoners also attend a presentation on restorative justice in their induction process.

All this went towards the creation of a restorative culture within the prison ‘where everyone wins’. This showed itself in reduced levels of self-harm, bullying and assaults/fights; and prisoners reported that they felt safer. Self-referrals from prisoners and staff began to be made.

Further work is planned: Community Building Circles for young offenders, those living in the addiction units and prisoners living in the independent living units (houses for prisoners ready for release, looking after themselves and working in the community). There is a continued focus on carrying out restorative justice cases with conferences and meetings, and auditing these (Brookes 2005; Wilson 2005).

Belgium: Restorative justice in Prisons project

A Belgian action-research project started in October 1997 (partly in response to the Dutroux affair in 1996), working in six different prisons, financed by the government and entitled ‘Keystones for a Coherent Restorative and Victim-oriented Justice Policy’. The action-research project was undertaken by the Universities of Leuven and Liège, with the following aims:

- linking correctional aims with restorative justice (recognition of victims, acceptance of responsibility by offenders)
- taking into account the different settings of each prison
- offering financial compensation
- providing information for victims about correctional programmes
- involving prison staff, outside victim assistance agencies and offender support
- providing restorative and victim-oriented corrections.

In 1999, inspired by the positive results of this project, the Minister of Justice decided that every prison in Belgium should develop a restorative regime and practice. By October/November 2000, there were 30 ‘redress consultants’ (restorative justice advisers) in post, covering all the prisons. Their main tasks are seen as:

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4 Marc Dutroux was a multiple sex offender, whose crimes included kidnap, sexual abuse and murder of several young girls. These crimes came to light in 1996, and there was a public outcry. This became the motivation to do more for victims of crime, including provisions for restorative justice.
1. Introducing a culture of respect within the prison
   - developing consultation structures between the various services in the prison
   - raising the awareness of the prison staff regarding restorative justice.
2. Making possible direct and/or indirect communication between offenders and victims
   - setting up consultation structures between internal and external services
   - raising the awareness of prisoners regarding restorative justice and the needs of victims
   - raising the awareness of victims and the community about life in prison and the restorative justice project.

In order to influence the prison context effectively, the restorative detention programme has to address as many aspects of the prison community as possible, needing action of the following kinds:

- preparation, e.g. collecting information to enable reparation
- sensitisation, e.g. discussion groups for inmates on restorative justice
- informative action, e.g. modifying brochures for inmates to include victims
- training, e.g. victim awareness programmes for inmates and staff
- networking, e.g. liaising with Victim Support
- direct or indirect reparation, e.g. establishing community reparation projects
- making victim–offender mediation available in prisons (as it is already in many Belgian prisons).

One example of this was the establishment of a ‘redress fund’, set up to help victims whose offenders had no money to pay compensation. The scheme is run by a non-governmental organisation (Suggnomè). Offenders undertake practical community work and the money earned is passed on to the victim by Suggnomè (Aertsen 2005).

**Case studies: Restorative justice in three Belgian prisons**

This is how three Belgian prisons have implemented restorative justice:

**Leuven Central**

This is an old prison holding 300 male prisoners, providing long-term training. It has a full day of unlocked movement with access to work and education. Men are selected to come to the prison, which is valued for its relaxed regime. The restorative justice adviser helped to raise staff awareness of the principles of restorative justice, and helped them to
develop restorative relationships throughout the prison – staff–staff, staff–prisoner, prisoner– prisoner.

**Hoogstraten Penitentiary School Centre**

This is an open prison for 150 medium-term prisoners, based in a moated medieval castle. It has a full working day with a range of vocational training courses as preparation for release. Prisoners are prepared for reintegration into society as a means to improving community safety. The restorative justice adviser has helped to develop courses in victim awareness and cultural differences, leading to meetings with victims. Guided visits are arranged for members of the community. Direct mediation between prisoners and victims is also arranged, bearing in mind the sensitivity needed for this work.

**Leuven Hulp**

This prison is an overcrowded support prison to Leuven Central. It contains 165 prisoners, of whom 90 are awaiting trial; 35 are psychiatrically ill; 50 are locally based men. The restorative justice adviser started with a consultation involving the whole prison. The first project was a leaflet for victims about the prison, then involvement in the ‘redress fund’. A project called ‘Focus on Victims’ raised awareness and developed empathy for victims. Although this met with initial resistance from prisoners, they came to appreciate the learning and development they achieved through it.

*(Edgar and Newell 2006)*

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**Working in custodial settings**

**Issues and problems**

Some of the problems in introducing restorative approaches are just the same as in the community, but some are particular to secure settings. Several establishments have found ways of solving them, and persistence is often the key. Below are some of the most usual problems, with suggestions for handling them.

1. **Getting started**
   
   Programmes can be started by a wide range of people: victims, offenders, prison workers, boards of visitors, lawyers, chaplains or members of the local community. Initial suspicion and resistance are not unusual, and need to be recognised and allayed. Recognition from senior staff, including the governor, is important for sustainability.

2. **Gaining entry to prison facilities**
   
   It is important to recognise that most prison facilities are security orientated, and to accept this and work within such rules. Most prison staff come to recognise the usefulness of restorative justice programmes in time. Working with staff is vital, and it helps to find a good liaison person or ‘champion’ of restorative justice within the prison.
3. **Vagaries of prison schedules**
   Changes and interruption of schedules often occur, so it is best to design programmes with limited schedules in mind. Prisoners may also be transferred at short notice. Having a good working relationship with prison staff can allay many of these problems. It is useless to enter into battles that can’t be won, and important to remember that project staff are guests in the prison.

4. **Fear and doubts**
   Victims, offenders and prison staff are frequently dubious of new programme initiatives, particularly ones that 'humanise' the penal process, but are often converted by the experience. Restorative justice challenges many assumptions in prison work, so people need time to adjust.

5. **Funding**
   Funding for many prison projects has been short term, and many of them have flourished and then died when funding ceased. There is continual pressure to reduce costs, leading to the closure of ‘add-on’ projects. However, restorative interventions could reduce costs; for example, those of violent incidents in prisons. Some prisons have found the changed atmosphere has repaid their investment in restorative approaches.

6. **Clarity and openness of purpose**
   It is essential to be clear about aims, objectives, values and philosophy in developing the programme.

7. **Counselling and preparing victims and offenders**
   Considerable preparation is necessary for both victims and offenders prior to meeting/ mediation. Areas such as motivation, benefits and process must be clear to all. This assessment procedure should enable the programme workers to select those who are suitable and steer away those who are unsuitable, or not yet ready.

8. **Gender**
   In most countries there are far fewer programme opportunities for female inmates. It is important to establish such programmes for women too.

9. **Feedback and evaluation**
   It is vital to establish evaluation from the outset, both for the process and the outcomes. It is important to include an independent evaluation as well as staff and participant evaluation. This information can be used to improve programmes, and to establish whether they achieve their aims and objectives.
10. **Acceptance**

Although victim–offender mediation and reconciliation are more than 20 years old, they are still new to many people. People can be sceptical or downright resistant to such ideas. However, once begun, most practitioners’ experience is that acceptance will come later, and staff who are often most resistant to begin with will end up participating enthusiastically in such schemes.

Prison managers and staff are beginning to see that restorative approaches can help them achieve their goals of meeting victim needs, reducing offending behaviour, and making prisons and the wider community safer places to be – and that this can be done in a way that fulfils rather than overthrows the aims, objectives and policy requirements laid upon the prison service.

(Edgar 2006; Immarigeon 1994; MacKay 2002; Newell 2006)

Ten golden rules

Ten golden rules were developed by the government research project described in Chapters 8 and 9 (pp.193–5 and p.226):

1. You can’t do it on your own.
2. Build effective partnerships – form a steering group?
3. Learn from others – training and beyond.
4. Agree protocols – internal and external.
5. Raise staff awareness.
6. Raise prisoner awareness.
7. Get the basics right.
8. Build your project into prison structures.
10. Evaluate and publish.

(Emerson 2005)

**Conclusion**

These examples show what can be achieved in prisons and point the way to a more constructive use of prisoners’ and staff time. This has led to a renewed interest in a more positive use of inmates’ time in prison, which can really make a difference while they are inside and when they are released.
Summary
This chapter starts by looking at research on conflicts in prison, and tackling the myth that violence is inevitable – it can be reduced through mediation and restorative conferencing. Many prisons are now experimenting with replacing prison adjudications (for prison offences) with restorative approaches, also using these in anti-bullying procedures. Peer mediation training has been undertaken in a Young Offender Institution, and staff in a Serbian Young Offender Institution mediate conflicts. This leads on to building relationships in prison and the idea of a ‘restorative prison’ and what that could involve. Examples are given from Belgium, the country with restorative justice advisors in every prison. Prison managers and staff are beginning to see that restorative approaches can also meet prison needs too.

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CHAPTER 11

Restorative Justice Around the World

Introduction
This chapter covers just a few of the restorative justice developments going on around the world. It cannot cover them all, as it is impossible for one person to know everything that is happening. I will also draw on some of my personal experiences of training work in a few countries.

As has been mentioned in Chapter 2, most (though not all) cultures have used some form of restorative justice as their main method of resolving conflicts and harms. Much of this was lost through colonisation and the importation of European retributive justice systems. Now many countries are rediscovering restorative justice and adapting the philosophy to include positive aspects of current practice, such as gender equality.

NORTH AMERICA

Canada
It seems appropriate to start with Canada, where the first recorded instance of ‘modern restorative justice’ took place (see Chapter 2). A list of restorative justice programmes (Conflict Resolution Network Canada 2005) shows that in 2005 there were 123 programmes, with the largest number in British Columbia (32) and Ontario (27).

In Canada, the federal government is responsible for enacting criminal law, while provincial governments are responsible for the administration of justice. So each jurisdiction develops its own restorative justice programmes (and there is an acceptance of this philosophy, regardless of politics). They include diversion programmes for minor offences, programmes for more serious offences operating at the sentencing stage, and also post-sentence programmes which operate alongside the traditional criminal justice measures (Department of Justice, Canada 2000). A restorative justice initiative in a Canadian prison has already been mentioned in Chapter 10 (pp.246–7).

A variety of models is in use, such as victim–offender mediation, Family Group Conferencing and Sentencing Circles, the latter being more developed in Canada than elsewhere. Peace-making Circles, Sentencing Circles, Healing Circles and
community-assisted hearings are based on Aboriginal and First Nations practices of involving communities, families and elders in discussions of offences (see Chapter 4, pp.96–8, for a case study). Participants sit in a circle and pass a ‘talking stick’ from one speaker to another. Sentencing Circles include a judge, lawyers and police, and the whole meeting recommends to the judge what the sentence should be. Healing Circles are ceremonies aimed at bringing a conflict to a close. Community-assisted hearings (sometimes called ‘releasing circles’) are a community-based version of National Parole Board hearings concerning the reintegration of an offender into the community (Department of Justice, Canada 2000).

The Youth Criminal Justice Act 2002 (which came into force in 2003) aimed to reduce the high incarceration rate of Canadian youth by providing many more opportunities for ‘extrajudicial measures’ to divert young people from the criminal justice system. Although restorative justice is not specifically mentioned, it can be included in these measures, and there is a recommendation to use conferences or similar restorative practices to advise on decisions, such as appropriate sentences or extrajudicial measures (Department of Justice, Canada 2006).

In April 2000, Canada took the lead in introducing a resolution at the UN Commission on Crime Prevention and Criminal Justice, then in 2001 hosted a meeting of experts from 17 countries in Ottawa, resulting in the UN Resolution in 2002, encouraging all countries to implement restorative justice (see pp.278–9) (Conflict Resolution Network Canada 2003).

United States
As one of the earliest initiators of victim–offender mediation, there is considerable restorative justice activity in the US. The well-known Mennonite initiative in 1974 in Canada was replicated in the US in 1978 in Elkhart, Indiana. Since that date, restorative justice programmes have grown steadily, including small and large schemes (Roberts 2005; Umbreit et al. 2000).

Umbreit and Greenwood undertook a national survey of victim–offender mediation programmes in the US in 1996, published in 2000. They identified 289 programmes, some small, some large. Forty-three per cent are private community-based agencies; 22 per cent are church-based programmes; the rest are based in a variety of state agencies. Forty-five per cent work with young offenders, 9 per cent with adults and 46 per cent with both. The most frequent offences handled are (in order of frequency) vandalism, minor assaults, theft and burglary, and occasionally more serious offences. Most of the schemes operate at the diversion stage. Mediation is entirely voluntary for victims, and also for 79 per cent of offenders, but 21 per cent require offenders to meet their victims if the victims are interested. Mediators are usually trained volunteers, working in pairs. Funding sources include local government, 27 per cent; state government, 24 per cent; foundations, 12 per cent; churches/faith communities, 10 per cent; individual contributions, 9 per cent; federal government, 6 per cent; United Way, 6 per cent; fundraising projects, 3 per cent; miscellaneous fees, 3 per cent (Umbreit et al. 1997, 2000).
The Balanced and Restorative Justice (BARJ) Project surveyed policy and practice in the US (Balanced and Restorative Justice 2004) and showed that virtually every state is implementing some aspect of restorative justice principles at various levels (e.g. state, regional or local). Many of them have policy statements and have incorporated restorative justice into their statutes. In 2002, there were approximately 773 restorative justice programmes in 48 states. Victim–offender mediation is the most common model, though most states use a variety of models. Minnesota is recognised internationally as a leader in innovative restorative practice (Balanced and Restorative Justice 2002, 2004).

One interesting scheme is the North Carolina District Criminal Court Mediation Program, which provides mediation at court, using volunteer mediators. It developed from a community mediation service set up as an alternative to court in the late 1970s for court cases concerning Vietnam war protesters and black civil rights activists. The district attorney informs people waiting for their cases that they can choose between court and mediation (and pay a lesser court fee). Mediators are waiting in the court ready to take cases. If anyone opts for mediation, and both victim and offender agree, two mediators take them to a nearby meeting room. If agreement is reached (as it is in 93 per cent of cases), it is written down, and copies are given to each party and a third copy is kept on file with the mediation service. No details are given to anyone in the court, and the judge dismisses the case. The majority of cases dealt with are assaults and threats. Their work with domestic violence cases is described in Chapter 12 (p.294–5) (Carolina Dispute Settlement Services 2005; Clare 2003; McGeorge 2004).

Although most victim–offender mediation is concerned with minor offences, there is increasing interest in very serious and violent cases, such as drink driving, serious injury and death, rape, manslaughter and murder. Mark Umbreit in Minnesota, David Doerfler in Texas and David Gustafson in Canada have pioneered this type of work, now known as Victim Offender Dialogue (VOD). It is described in detail in Chapter 9 (p.228–9). At the time of writing (August 2006), the states with VOD programmes are:

- Alabama
- California
- Delaware
- Iowa
- Louisiana
- Maine
- Minnesota
- Montana
- Nebraska
- New Hampshire
- New York
- Ohio
Case study: Criminal vehicular homicide

The events

It was summer 1998. Mary and her husband Jim had spent a nice Saturday together at the park, swimming in the river and enjoying each other’s company. It was their day together, without their children. They decided to end the day at the Fireman’s Picnic, an annual community event.

A thunderstorm threatened and the event was called off. Everyone headed for their cars, and Mary and Jim walked towards theirs. It began to rain and suddenly a truck travelling at 60 miles per hour (in a 30 mph zone) came out of nowhere and struck the couple.

Mary was unhurt but, when she got up, she saw Jim still sliding along the road. When she reached him she knew that he was dead. She attempted cardio-pulmonary resuscitation (CPR) and other life-saving techniques, but she knew it was too late.

When the ambulance arrived, Mary asked to go with Jim to the hospital. The ambulance crew refused and told her to go home. She was surprised, but did as she was told, as she felt quite ‘surreal’. She knew she had many things to deal with, especially telling their children that their father was dead.

Mary went home, took care of some business and got support from her neighbours, who were very helpful. The next morning, when the children got up, she told them. Soon after this, the sheriff arrived and told her that they had arrested the driver of the truck, and that he was a policeman. He had also been at the picnic, and had been drinking. After leaving the scene of Jim’s death, he had another accident, which he also drove away from. He was later arrested at his home, where he was found unconscious on the couch, his service revolver in his hand. He had heard on his truck radio that the man he had struck had died, and he tried to kill himself, but was so drunk that he passed out.

This information was particularly hard for Mary to hear, as she was interested in joining the police. She had put this off while Jim was still at college. He had just graduated from his teacher training, and they were planning a move to another state for his first teaching job. Jim was a popular member of their community who coached some of the kids’ teams.
Mary received a lot of support from the community. She also received letters from many states from people in law enforcement offering her understanding and support, and this was important to her.

She thought the arrest, investigation and trial were very well handled. Her first view of Bob at the trial was not favourable. She saw him as a cocky young man who was not taking responsibility for his actions.

In Mary’s ‘victim impact statement’ at court, she recounted the effect of the crime on her and her children’s lives. She asked the court, given Bob’s violation of the trust of his position, to find him guilty on all counts and give him the maximum prison sentence ‘consecutively, not currently’. She also asked for him to be fined the maximum monetary damages allowed by law.

At some point, however, Mary’s feelings began to shift. Perhaps it was related to her seeing Bob at the sentencing phase of the trial, and hearing his story of events, which he told with a great deal of emotion. Mary felt that this was their first real meeting. She began to advocate to the county attorney for Bob to receive a short time in prison and a long period on probation, along with a great deal of community service and public speaking. The county attorney refused, as she felt (as an elected official) that the community would demand a long jail sentence for Bob.

Mary always wanted to meet and speak with Bob, but the people in her life felt that this would be unwise, and probably impossible for her.

**Offender’s perceptions**

Bob said the day of the accident was unusual for him, as he was able to attend the Fireman’s Picnic for the first time – he usually had other responsibilities. He had spent a leisurely day with friends drinking and having a good time.

When the rain came, he got into his truck and decided to drive past the cars, as his usual route would be jammed with people trying to leave. He accelerated and lost control of his truck as it skidded across the road. He thought he had hit a parked car, turned to look, and when he turned back he saw Mary and Jim walking along, and hit them. It all happened in an instant, and he panicked, speeding from the scene of the accident, then further up the road hitting another vehicle. On reaching home he became very distraught. He got his service revolver out in order to shoot himself. At that moment he passed out on his couch.

Although Bob was terrified of what might happen to him at trial, he refused to allow his attorney to plead ‘not guilty’, as he felt it would be a ‘disgrace to the family’ to do that. He was also worried about how he would fare in prison as a former policeman. As a result of the county attorney’s desire to impose a strict sentence, Bob received 44 months in prison, a harsher sentence than had been meted out for any previous similar crimes in the county.

Bob found the sentencing phase of the trial very difficult, hearing himself characterised as a ‘bad, evil person’. He felt he had made a terrible mistake, but not that he was an evil person at heart. He wanted to let people know who the ‘real Bob’ was. This was very emotional for him, as many of his friends and family members were in the courtroom, and had not heard his story before.
Referral

The victims’ advocate at the county Victims’ Services Agency told Mary about victim–offender mediation. Mary asked for someone to facilitate a meeting with Bob and was referred to the Center for Restorative Justice and Peacemaking at the University of Minnesota. A lead mediator and a co-mediator were assigned to the case. Mary was very eager to meet Bob and talk to him – she wanted to know ‘who, what, when, where and why’.

Bob was approached by his case manager at the institution, who asked him if he would be willing to meet Mary. His initial reaction was fear, so he refused, saying only that he would think about it. As he walked away, he thought, ‘Bob, don’t be selfish, something good might come of this for both of you.’ He immediately went back to the case manager’s office and told her he would do it.

Preliminary meetings with the victim

Mary was now living in a distant state, so the initial meetings with the mediators took place on the telephone. Later, during a trip back to her old community, she met with the two mediators in a restaurant. The preparation was a struggle, as she was unclear about her goals for the meeting, and unable to write down what she was hoping for. She was glad that the primary mediator allowed her to pursue her own course. She said, ‘I didn’t know what I wanted, I just knew that I couldn’t move forward until I had met with him.’

In all, the mediator’s preparation time with Mary included five phone calls, two meetings of two hours (one of these the day before the mediation session), a 20-minute pre-briefing meeting just before the mediation session, a 15-minute post-briefing immediately after the mediation session and several follow-up phone calls over the following six months.

Preliminary meetings with the offender

Bob’s preparation took nine difficult months. In spite of what the mediator told him, he still feared that Mary would yell at him, or that the meeting would go badly. He wished the meeting could have happened sooner.

As Bob was in prison in another state, much of the preparation work took place over the telephone with both the primary and secondary mediator. He needed to be transported to the state where the crime occurred for the mediation to take place, and the arrangements for this were difficult and time-consuming.

Bob was asked to write a letter regarding the incident, trying to put himself in the shoes of the person he would be meeting with, as if it were a member of his family. Bob found this very difficult.

The mediator’s preparation with Bob was as long and detailed as with Mary.

The joint session

The mediation took place in January 2000, over two years after Jim’s death. The venue was the county jail in the community where the crime occurred. The session lasted about three hours, with a 15-minute break.

Bob found it difficult waiting for the meeting:
It was hard. I was very scared. I was so nervous before the interview, I thought I was going to get sick. I’ve had butterflies before interviews and stuff like that, but this was nothing compared to before that meeting. I was terrified.

Mary felt quite calm at the beginning. The session began with each making a preliminary statement to the other. The mediator asked Mary to make the first statement, but she asked Bob to go first. He made an effort to give an apology, to which Mary responded, ‘You’re going to have to do a lot better than that.’ Bob thought of leaving the meeting. Both felt the situation was tense and unnatural. After about an hour the mediators called a break.

When they returned to the room, Mary asked if the mediators would allow her and Bob to be left alone to discuss some issues. She felt Bob was not being real with her, or taking responsibility for his actions. Bob agreed to Mary’s suggestion, and so did the mediators, so they left the two alone to talk. The content of this conversation remained private, but both agreed that this period of the meeting was profound. When the mediators returned to the room, Bob was crying and the tone of communication between the two was completely different.

Mary felt that a transition took place and she began to see Bob as an individual. She was familiar with alcohol abuse from family members, and said, ‘I’ve been there myself, exactly where he was that night. I can’t condemn a man for something I’ve done myself and just had better luck.’ So Mary opened herself to Bob’s genuine feelings of responsibility, and shared the fact that she had been in his shoes, in choosing to drive home when she shouldn’t have. This then led to Bob being more open and real with her. This joint connection allowed both to progress in mourning the loss that each had experienced.

Follow-up
The mediators contacted Bob and Mary six months after the meeting. Bob said, ‘I now have a positive attitude…my stress has lessened…it was a real rush…my time in prison is going more easily.’ Mary said, ‘I really appreciated the mediators’ flexibility and willingness to leave the room and let us talk alone. And I am no longer obsessed with daily thoughts of my husband’s death… I really am able to move on.’

AUSTRALASIA

New Zealand
In many ways New Zealand suffers from the same trends as other Western countries – increasingly punitive attitudes accompanied by a high rate of imprisonment. But its youth justice system is an example to the whole world, in virtually replacing an ailing traditional retributive/welfare system (with large numbers of young people in residential institutions) with a restorative system that diverts most young offenders to community provisions.

1 Many criminal justice systems alternate between a retributive ethos (based on punishment) and a welfare ethos (providing help), or a mixture of the two, depending on the circumstances. See also Chapter 1.
The Children, Young Persons and Their Families Act 1989 aimed to empower families and communities, rather than professionals, in deciding the best way to respond to offending behaviour in children and young people. It also aimed at being more culturally appropriate to the Maori community, whose young people were disproportionately involved in the criminal justice system. It established Family Group Conferences (FGCs) as the method of accomplishing these aims.

Approximately 76 per cent of youth offending is dealt with by police diversion schemes. About 8 per cent are referred to FGCs by the police pre-charge and the remaining 16 per cent by the Youth Court after a case is proved. Thus all cases are either diverted or go to an FGC – the only condition is that attendance is voluntary and the offender ‘does not deny’ the offence. Although the Youth Court retains responsibility for approving (or not) the outcome of an FGC, it rarely contradicts it. Only 5 per cent of offenders return to court for fresh offences. About 5000 FGCs are held each year.

An FGC is convened by a youth justice coordinator at a suitable venue. The young offender attends with his family and members of his or her tribe, as appropriate. Others present include the victim, the police, and professionals involved with the family or who might offer help and resources.

The process usually involves:

- introductions and prayers if appropriate
- an explanation of the procedure by the youth justice coordinator
- the presentation of the summary of facts of the offence by the police
- an opportunity for the offender to comment on the accuracy of the police statement
- a formal admission of responsibility by the young person
- an opportunity for the victim (or representative) to present his or her view if the offender admits the offence
- a general discussion of possible outcomes
- a discussion of options among the offender’s family
- general negotiation and the formulation of a plan, response or outcome by the FGC participants
- agreement from participants
- recording of the agreed plan and closure of the meeting.

The young person’s family and those they invite are entitled to deliberate in private during the FGC and can ask for the meeting to be adjourned to enable discussion to continue elsewhere.

Research on its first three years of operation (Maxwell and Morris 1993, 1996) showed that 95 per cent of young people were being made accountable for their criminal acts, court appearances had dropped from 64 to 16 per 1000 young people, and residential custody dropped by more than half to only 2 per cent of young offend-
ers. These benefits are in addition to the healing for the victim, the family involvement, the opportunity for the young person to apologise and put things right, and so on (Consedine 1999; Morris and Maxwell 1998; New Zealand Ministry of Justice 2005a).

Further restorative justice legislation was passed in 2002, resulting in a court-referred restorative justice pilot in four district courts (covering adult offenders as well as young offenders), operating pre-sentence after a guilty plea. The outcome of the restorative conference is then taken into consideration in passing sentence. Evaluation findings showed victim satisfaction and that fewer offenders who attended restorative conferences were sentenced to prison (New Zealand Ministry of Justice 2005b, 2005c).

As a result of this, in August 2006, the Ministry of Justice announced a set of major new developments to expand restorative justice nationally, including adult offenders:

- staged national provision of restorative justice processes for less serious offending
- staged national provision of restorative justice processes for more serious offending
- staged increase in provision of restorative justice in conjunction with prisoners’ re-integration into the community
- development of a national performance framework linked to quality processes.

These initiatives will start in 2007 and be funded for three years. No legislative changes are needed. They will involve police (diversion scheme for less serious offending), a court-referred service for more serious offending (based on the pilots described above) and a prison project based initially in two prisons, and, if successful, then rolled out to all prisons. The national performance framework will ensure quality, consistency and integration in restorative justice provision in New Zealand. Much of this work has already been going on; the difference here is funding for national provision and a national framework (New Zealand Ministry of Justice 2006).

**Australia**

Conferencing was introduced into the Australian juvenile and criminal justice systems in the early 1990s. The conferencing idea was borrowed and adapted from New Zealand, but applied to Australia in different ways.

In 1991, police in the town of Wagga Wagga, New South Wales, were the first to try out conferencing. The ‘Wagga model’ used police officers to run conferences of offenders, victims and community members to resolve feelings and needs after a crime. Police in other states followed suit, and conferencing has also spread to schools and workplaces in New South Wales and Queensland.

Currently, different agencies are responsible for restorative justice in different states. In the Australian Capital Territory, conferencing is run by the police; in New South Wales, South Australia, Western Australia and Queensland, it is run by justice authorities; and in Victoria it is run by a church body. In some jurisdictions conferencing
remains on a small scale, while in others, principally South Australia, Western Australia and New South Wales, it has become an established part of mainstream juvenile justice procedure.

All eight states and territories have used the conference model, but only five are currently using it. Four of these have legislation to establish conferencing. In the other three, conferencing is available for selected cases or places, or is waiting to start (Australian Institute of Criminology 2005).

One of the most important pieces of research was carried out in the RISE (Reintegrative Shaming Experiments) project. The research design was a randomised controlled trial comparing the effectiveness of conferencing with normal court processing of young property and violent offenders and of drink drivers. The outcome measures compared rates of recidivism, victim satisfaction, perceptions of procedural justice by both victims and offenders, and costs. The first analysis of re-offending rates, comparing offending in the 12 months prior to entry into the study with 12 months after, indicated mixed results. Conferencing of drink drivers actually resulted in a slightly, but significantly, higher rate of re-offending among those who had been assigned to a conference compared with those assigned to court. For juvenile property offenders, there was no significant difference between the two groups. However, those young violent offenders assigned to a conference re-offended at a significantly lower rate, committing 38 fewer offences per 100 offenders per year, than those assigned to court (Sherman, Strang and Woods 2000). Broadly speaking, the programme was found to be more satisfying than court for victims and was perceived by both victims and offenders as fairer than court (Sherman et al. 1998; Strang et al. 1999). This research was the basis for the UK Home Office research project (see Chapters 8 and 14, pp.193–5 and pp.340–1) (Strang 2001).

EUROPE

European Union Council Framework Decision

The Council of Ministers of the European Union (EU), under the terms of the Amsterdam Treaty concerning justice issues, made the following decision:

European Union Council Framework Decision No. R(99)19 on Mediation in Penal Matters (March 2001)

Article 10:

1. Each Member State shall seek to promote mediation in criminal cases for offences which it considers appropriate for this sort of measure.

2. Each Member State shall ensure that any agreement between the victim and the offender reached in the course of such mediation in criminal cases can be taken into account.

Under Article 10, each Member State must put into place laws, regulations and administrative provisions to comply with the framework decision, in the case of Article 10. The deadline date for doing this was 22 March 2006.
This decision has influenced many countries to set in motion plans to introduce restorative justice, including several of those hoping for accession to the European Union in the near future (Aertsen et al. 2004; Miers and Willemsens 2004).

Restorative justice in Europe

Most European countries have had some restorative justice provision for many years, mostly for young people, and some for adult offenders too. A recent survey carried out for the European Forum for Victim–Offender Mediation and Restorative Justice (Miers and Willemsens 2004) provides full accounts for 17 countries: Austria, Belgium, Czech Republic, Denmark, England and Wales, Finland, France, Germany, Italy, Luxembourg, Netherlands, Norway, Poland, Portugal, Slovenia, Spain and Sweden; and short accounts for eight countries: Albania, Bulgaria, Hungary, Iceland, Ireland, Moldova, Scotland and Ukraine.

This does not mean that all these countries have well-developed restorative justice systems and practices – some are just starting. And there are countries not listed which have very interesting developments, such as Serbia and Montenegro.

The European Forum for Victim–Offender Mediation and Restorative Justice (now the European Forum for Restorative Justice) was formed in 2000 to bring countries together and provide a forum for discussion and passing on good practice. The office is based in Leuven, Belgium – Leuven University has taken a lead in researching and promoting restorative justice. Over the past two years the European Forum has had a European grant to help Central and East European countries to develop restorative justice, and many of these countries are now well on the way to establishing restorative justice systems and practices. In many cases, this requires a change in the law (Fellegi 2005).

Below is a selection of restorative practices and developments from countries in Europe, based mostly on Miers and Willemsens (2004).

Austria

Victim–offender mediation was introduced into the law for juveniles in 1988 and for adults in 2000 (although it had been available from 1985 for juveniles and 1992 for adults). It is part of a ‘diversion package’ for offences attracting a maximum prison sentence of five years. The mediation is undertaken by full-time professionals (qualified in social work and trained in mediation over a period of three to four years), who are employed by ‘NEUSTART’, an autonomous body subsidised by the Ministry of Justice. In 2002 they handled 8800 referrals (approximately 20% juvenile, 80% adult cases). They also mediate (with safeguards) domestic violence cases, which many countries do not.

Norway

By contrast, mediation in Norway is undertaken entirely by volunteer mediators, who receive four days’ basic training (see influence of Nils Christie, Chapter 2).
Victim–offender mediation was introduced into the law by the Municipal Mediation Service Act 1991, amended in 2003 to become the National Mediation Service, a government agency. Each area has a local mediation service, with a paid coordinator and office staff, and a group of volunteers who receive expenses and a token fee for each case. The philosophy is one of community involvement. There are about 700 mediators and the services receive about 3000 referrals each year. There is also a big involvement of mediation in Norwegian schools.

**Case study: Norway assault case**

A middle-aged woman, Ann, lived in a small town in the middle of Norway. It had always been a nice quiet place where everyone knew each other, and people had no fear of serious crime – not even late at night. Ann used to take a walk every evening, just to breathe some fresh air and relax after work.

One winter’s day, while Ann was taking her usual walk, a totally unknown man suddenly came up to her, grabbed her glasses and ran away. ‘Give me my glasses,’ Ann said to the man. She did not really feel frightened, just took it for some kind of joke. A short time later, the thief came back and tried to grab her warm jacket. Now Ann became very scared and started to scream. The offender ran away and Ann took shelter at a petrol station. She called the police. The man was later arrested. Back at her own flat again, Ann kept on asking herself: ‘Why?’ and ‘Why me?’ The following night she could not get to sleep. The next day she didn’t feel very well, so she decided not to go to work, but stay at home. From that moment, Ann skipped her walk in the evening, and stayed inside with her fear and questions. Her life had changed – she had become a victim.

The attack was investigated by the police. During the investigation both Ann and the offender were asked if they would like to take part in a mediation meeting. The Public Prosecution referred the case to the National Mediation Service.

At the local branch of the National Mediation Service, Ann met the offender – Tom, aged 29 – for the second time in her life. He was a drug addict doing well on a drug rehabilitation programme. Although the mediator assured her that she had nothing to fear, Ann was afraid to face him again. At the beginning of the meeting Tom told his side of the story. He remembered the incident when he had attacked Ann. He was very remorseful and wanted to apologise for his behaviour that night. He was unable to explain his behaviour, except that his medication was changed that evening, and his thoughts and behaviour became unpredictable. After the incident, he had immediately gone back to his doctor to get his medication changed back. As the mediation went on, Tom and Ann created a positive dialogue and finally managed to reach an agreement. Tom apologised to Ann for his behaviour, and was grateful that she had accepted his apology. He wanted to convince her of his sincerity by giving her flowers. (The loss of glasses had been taken care of by the insurance company.) Later, at the Mediation Service office, Ann told the staff with tears in her eyes: ‘It was great at the end of the mediation when Tom rose from his chair and apologised, and we could shake hands.’

The day after the mediation meeting, Ann found a big bunch of roses by the door outside her flat, together with a nice letter from Tom. He was now a ‘nice boy’, in Ann’s opinion, no longer a ‘criminal’. Ann felt satisfied – and of course much less worried.
When she accidentally ran into Tom the next day in the street, she spontaneously gave him a big hug and thanked him for the nice flowers and warm words of apology. Ann and Tom had finally reached conciliation. Ann was no longer afraid of taking a walk in the evenings. She said: ‘Maybe mediation was good for him too?’ After the mediation, the National Mediation Service returned the case to the Public Prosecution and it was closed.

Belgium

Mediation is available generally for juveniles and adults in Belgium at the police stage and as a diversionary process from prosecution. There is also the possibility of mediation in more serious cases, where a decision to prosecute has been taken – called ‘mediation for redress’. Mediation in these cases can be direct or indirect, and focuses on in-depth communication between the parties. Two voluntary organisations handle these cases (one for the Flemish-speaking and one for the French-speaking part of Belgium) and also cases of ‘mediation during detention’ (see below). Belgium is also renowned for its ‘restorative detention’ prisons project. Starting as an experiment in 1997, six restorative justice coordinators were appointed to six prisons. This was so successful that similar ‘restorative justice consultants’ were appointed to all the prisons, so that by 2000 there were 30. They undertake a variety of restorative work, according to particular prisons’ needs, such as victim–offender mediation, victim–offender groups, victim awareness work, schemes to help prisoners earn money to pay compensation to victims, as well as developing a restorative ethos in the prison (Newell 2004; Robert and Peters 2003).

Poland

Programmes for victim–offender mediation have been running in Poland for ten years. Funding was received from a German foundation, and conferences (organised in cooperation with the Council of Europe) were held with speakers from several West European countries. Trainers from Poland are now spreading the message further east. Two changes in the law were made, in 1997 and 2000, to facilitate the use of victim–offender mediation. The programme, in eight family courts, was researched by Dobrochna Wójcik and Beata Czarnecka-Dzialuk in 1997–9. The Polish model relies heavily on volunteers (who receive a small honorarium); it is overseen by the Polish Centre for Mediation, which publishes a quarterly newsletter, Mediator. Poland has contributed actively to the European Forum for Restorative Justice, and there is a three-year exchange scheme 2004–2007 between the Polish Academy of Sciences and The British Academy (Wright 2005).

Czech Republic

Many Central and East European countries had been reforming their criminal justice systems as part of their preparations for joining the EU. The Czech Republic decided to combine probation and mediation in the same agency through their Probation and Mediation Act in 2000. The resultant Probation and Mediation Service (PMS) is based firmly on restorative justice principles, taking into account the needs of the victim, the
offender and the community. Mediation can be a diversionary measure or can be undertaken during a non-custodial sentence. PMS staff do not undertake probation and mediation with the same case. Probation and mediation professionals from England and Wales helped to train PMS staff in 2004.

Russia
For some years the Centre for Legal and Judicial Reform (CLJR), a Russian non-governmental organisation, has been trying to implement restorative justice in the juvenile penal system, to provide an alternative to the overuse of prison for young people. They have received training from trainers and consultants from the US, and I did a week’s training with them in 1999. From 2002 to 2005 they worked with the Centre for Social Action and the Community at De Montfort University in Leicester. There were three pilot projects, based in Moscow, Tyumen and Nizhny Novgorod, working to divert young people from prison by providing restorative justice programmes. Each centre handled 20–55 cases, and work was done to provide structures for a sustainable service for the future, with the hope of legislation at some point. The CLJR is also providing advice to several other cities in Russia (De Montfort University 2005).

Serbia
The United Nations Children’s Fund (UNICEF) in Serbia and Montenegro has been helping to reform the youth justice system by training people in restorative justice, funded by the Swedish government 2003–2006. There are so far five pilot projects: four community-based (three in Serbia, one in Montenegro) and one in a Juvenile Correctional Institution, Krusevac (JCIK) in Serbia. The community projects include one centre for mediation which is already in operation, two more centres in the advanced planning stages, and a ‘mobile teams’ project covering 15 municipalities (out of over 200) in different parts of Serbia. A new law was passed in autumn 2005, enabling the inclusion of mediation and reparation in diversion procedures and in court orders. Some of the community projects are waiting for operational regulations to be clarified, some have started work where they can. The JCIK project does not need a change in legislation, and has been operational since February 2004 (see case study pp.241–3. It focuses on conflicts and bullying between inmates within the institution, and has resolved several cases. The mediators (whom I trained) are a mixed group of staff who volunteered for this role – managers, personal officers, security officers, teachers, vocational instructors (Juvenile Correctional Institution in Krusevac 2005).

AFRICA
Most African countries had traditions of indigenous restorative justice practices as the accepted way of resolving conflicts and harms until their colonisation by European countries. The Europeans imposed their legal systems, with formal courts of law, and prison as the main punishment. However, these courts have proved difficult to access, for reasons of cost and distance, so that many victims feel they have little access to justice.
Meanwhile the prisons are full to bursting, with overcrowding resulting in the spread of disease, especially (in recent years) HIV/AIDS, and often death. Most African countries are poor and can ill afford the costs of a large prison programme.

Starting from the 1990s, several African countries have introduced community service as a more appropriate sentence for many minor crimes, and this has proved popular with victims, offenders and the community. In 2002 countries active in this area included Burkina Faso, Kenya, Malawi, Mauritius, Namibia, Rwanda, Senegal, Tanzania, Uganda, Zambia and Zimbabwe (Penal Reform International 2002). In 1999 I was asked to train a group of criminal justice professionals and NGO (non-governmental organisation) staff in Uganda to be victim–offender mediators, to help with negotiating community service work.

Many African countries are also trying to introduce restorative justice into their criminal justice systems, often trying to build on indigenous restorative traditions where they still exist. I was invited back to Uganda in 2002 to train victim–offender mediators to fulfil Uganda’s Children Statute 1996. When I saw this piece of legislation, it struck me as more restorative than UK legislation (see Chapter 7, p.154), and had appeared earlier:

**Uganda: The Children Statute 1996**

The Children Statute 1996 is indeed a radical piece of legislation. It states:

Where a case has been proved against a child (aged 12–17 in Uganda), the following orders may be made by the Village Court:

1. **Reconciliation.** This is where a peaceful settlement of the case is encouraged and may include advising the child to ask for pardon from the person reporting him/her.
2. **Compensation.** This is where a child is ordered to give a suitable payment for the loss, damage he/she has caused to somebody else.
3. **Restitution.** This is where a child is ordered to replace or return something lost or stolen to its owner and may include payment for any damage.
4. **Apology.** This is where a child is ordered to make a statement expressing that he/she is sorry for having done something wrong or for causing pain and trouble.
5. **Caution.** This is where a child is warned not to repeat the wrong he/she has done with a threat of future punishment if repeated.
6. **Guidance Order.** The Village Court will appoint a person who will be responsible for guiding, advising, assisting and supervising the child for a set period of not more than six months.

(Republic of Uganda, Ministry of Gender and Community Development 1997, pp.51–2)
Case studies from Uganda

These were cases suggested by trainee mediators to use for role plays on one of the courses I ran in Uganda in 2002.

Theft of radio

A boy’s grandmother had a radio which she used for listening to the news and to announcements, otherwise locking it away to save the batteries. The boy stole a neighbour’s radio to listen to music and the neighbour called the police. Mediators were asked to intervene. After discussion, the neighbour relented and the boy returned the radio. There was also discussion involving the grandmother, and the boy undertook to raise some money for batteries, so that both he and she could listen to her radio.

Damage to car windscreen

Often forgiveness featured prominently, especially cases involving poor people:

A 15-year-old boy (Kyakuwa) damaged the windscreen of a car belonging to Byakutaga. In one role-play group, the boy asked his father to pay the cost and, as they were poor, agreed to try and get some work on a farm so that he could contribute. In another group Byakutaga saw that the offender’s family was poor and asked him to wash his car every day for one month instead. In the third group Byakutaga realised the boy and his family were too poor to pay, and was happy to accept an apology and to forgive him.

Theft of shirt by street child

One of the local group’s concerns was the growing number of street children in Masaka (where they were based), so we used this in one of the role plays:

A boy of 12, Kato, ran away from home to live on the street. He stole a shirt from the local market. The mediation session included Kato, the stall-holder Mr Kyu, the offender’s father Muzira and a member of the local council – as well as the two mediators. After much discussion, Muzira agreed to sell two cocks to pay for the shirt, and asked his son to come home with him. Kato agreed and also promised to return to school.

(Liebmann 2004)

African Transformative Justice Project: Nigeria, Ghana and the Gambia

In 2001 I was asked to train mediators for the African Transformative Justice Project (ATJP), working in Nigeria, Ghana and the Gambia. These three countries were very different in many ways, but shared a tradition of English legal procedure. It is ironic that the ATJP had to look to the UK for a way to bring back a more African way of doing things – but it was important to persuade judges and magistrates steeped in the English court procedure that alternatives could be viable. I ran a week’s training in all three countries, and local networks were formed to set up the mediation services. At least one of these was operational in 2005, as I discovered when I happened to meet its director at a UN conference.
Through this project, I learned a great deal about the way people’s perspectives in these three African countries differed from common European assumptions concerning restorative justice:

- Victims were quite happy for cases to be diverted from prison for restorative justice, because once offenders were in prison, there was no chance of victims receiving compensation or reparation. Sometimes they even saw prison as the state stealing offenders’ labour instead of recompensing victims.
- In the absence of state welfare or insurance schemes, victims regarded property crimes as equally serious to personal crimes, because theft (e.g. of money or crops) could result in whole families starving.
- There seemed to be a tradition of forgiveness – many role plays resulted in victims forgiving offenders if they could see they were too poor to pay anything back.

(Liebmann 2002)

Rwanda

Over 100,000 people were apprehended for the 1994 Rwandan genocide. Because trying offenders in the Rwandan courts and the UN tribunal would take hundreds of years, the government decided instead to resurrect a traditional conflict resolution process called gacaca. These are local, open-air hearings overseen by ‘people of integrity’ who have been elected by their neighbours. Although ringleaders of the genocide are not eligible for the gacaca process, a large majority of prisoners are being tried using this informal process. Those who are found responsible may be sentenced to prison or to community service, or to a combination of both. The first prisoners were released to attend the gacacas in 2003. Prison Fellowship Rwanda trained facilitators to work in prisons to help genocide offenders to face up to their crimes, using a version of their Sycamore Tree programme (see Chapter 9, pp.208–12), called the Umuvumu Tree Project in Rwanda (Prison Fellowship International 2003).

South Africa

South Africa is famous for its Truth and Reconciliation Commission (see Chapter 15, pp.363–6), set up to deal with the aftermath of the Apartheid era. It also has several restorative justice schemes in the criminal justice system:

- A victim–offender conferencing scheme which started in 1999 in Gauteng, under the auspices of the Centre for the Study of Violence and Reconciliation in Johannesburg. In the year November 2002 to October 2003, it aimed to attract more serious cases, and was successful in this. Many of the cases concerned serious assaults within a domestic relationship. There was a 96 per cent satisfaction rate, and 84 per cent of agreements were fulfilled. Unfortunately funding was not renewed so the scheme did not continue (Dissel 2004).
• The growth of diversion programmes for young people, including restorative options, leading up to the Child Justice Bill, which it is hoped will incorporate the African concept of *ubuntu*² (Wood 2003). Although the Child Justice Bill has still not been passed (August 2006), there are currently about 18,000 diversions per year in which prosecution is withdrawn; while most of these use offender-based programmes, a few may include restorative conferences (Dissel 2005).

• Peace Committees, started in the early 1990s, working in many townships to resolve conflicts in local communities. There is little distinction between civil and criminal cases. Respected local people act as facilitators. By 2004 there were 15 Peace Committees and 6000 peace gatherings had been held (Wright 2004).

• The Prisons Transformation Project, in which inmates at Pollsmoor Prison attended workshops including creative and constructive approaches to conflict, followed by mediation and facilitation skills. The project ran for three and a half years from January 1998. One of the outcomes of the project was that the number of recorded assaults fell from 297 in 1997 to one per month or less in the years 1998–2001. From 2002 onwards, the emphasis shifted towards training managers and staff of several prisons in restorative justice and prison transformation. The project implementation plan for Pollsmoor Prison 2006–2007 includes training for staff in restorative justice principles and prisoners as peer facilitators in restorative justice (Centre for Conflict Resolution 2002, 2006a, 2006b; Hankeman 2006).

• A recent book reports on 60 projects in South Africa (Skelton and Batley 2006).

**LATIN AMERICA**

During the last decade, several Latin American countries have developed restorative justice programmes, often building on indigenous practices, many of which are restorative in nature. NGOs and universities in Argentina, Mexico, Brazil and Costa Rica have developed pilot projects in victim–offender mediation, and pushed for enabling legislation. In Argentina the pilot project included:

• *Mediation*. In which the mediator creates an open space for dialogue between victim and offender.

• *Conciliation*. In which the mediator takes a more active role in helping to resolve matters in complex cases or cases with social inequalities.

² The idea of *ubuntu* encompasses issues of human dignity and respect with the understanding that an individual’s humanity is wrapped up in the dignity and humanity of others.
• **Moderated conciliation.** For cases when victim and offender disagree on facts; the parties present their cases to a panel of three advisors, but the process is less formal than a court hearing.

Often the term ‘conciliation’ is used instead of ‘mediation’. Building on indigenous practices, Colombia, Ecuador, Bolivia, Peru and Guatemala have introduced legislation for penal conciliation. There is a big emphasis on resolving conflicts peacefully so that social cohesion is not lost. This is important in countries which have experienced or are still experiencing severe political tensions and conflicts (see also Chapter 15). In Chile, reparative agreements are used in property crimes, fraud or minor assaults to reach a negotiated settlement between victim and offender. Conferring is also being used in several countries, with young offenders and in schools.

Many countries also have schemes which include members of the community in addressing the needs of victims and offenders. Examples include ‘houses of justice’ which provide all the services needed by victims; victim assistance committees; and a restorative prison system involving volunteers from the community. These programmes aim to provide peace, healing and restoration for those affected by crime.

One of the main motivations for introducing restorative justice has been the need to ‘de-congest’ overcrowded courts and prisons, after the dramatic rise in crime and imprisonment in the 1980s and 1990s, sometimes connected to political conflicts. Another has been to address the lack of confidence in existing justice systems, often corrupt. Also very important in Latin America is access to justice for poor people, women and indigenous groups (Parker 2005).

### ASIA

There are many countries where traditional restorative practices are still in use, and, in some countries, such as Indonesia and the Philippines, these have been linked to modern criminal justice systems. The Barangay Justice System in the Philippines uses mediation and conciliation by local elected leaders, to provide access to justice for communities (Parker 2004).

One of the motivations for introducing restorative justice in Thailand is the huge overcrowding in prisons, due to the ‘get tough’ policy on drugs (Kittayarak 2005). Restorative justice fits in well with Thai traditions and culture, and Thailand began experimenting with Family Group Conferences for juvenile offenders in 2003. A total of 11,538 conferences were organised between 2003 and 2006, and only 3 per cent of juveniles re-offended, compared with 15–19 per cent for those prosecuted in the courts. In 2004 the Probation Services began a pilot project using restorative justice in 11 probation offices, at the pre-sentence investigation stage, and soon extended it country-wide to 96 probation offices, with two or three mediators in each office. This project undertook 2421 cases between 2004 and 2006. Another pilot project is the ‘Harmony Family Project’ dealing with cases of spouse abuse through restorative conferencing (Boonsit 2005; Roujanavong and Boriboonthana 2006).
Japan is often linked with ideas of restorative justice, partly because of John Braithwaite’s well-known work on reintegrative shaming. He quotes examples from the Japanese criminal justice system, where the outcome of many arrests is a confession followed by an abject apology and reparation, which together relieve the psychological burden of wrongdoing – which, in a communitarian society, shames not just the offender but his/her family and sometimes whole community (Braithwaite 1989). In this way, mediation seems to be an integral part of the Japanese way of life. However, a Japanese restorative justice commentator points out that this takes place in a context of retribution against offenders, and a shift is needed to include victims and the community in their own right. But he sees Japan’s ethos as fertile ground for taking this next step to establish restorative justice (Yoshida 2003).

UN RESOLUTION 2002

In April 2002 in Vienna, at its eleventh session, the UN Commission on Crime Prevention and Criminal Justice passed a draft resolution for adoption by the Economic and Social Council on ‘Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters’. It was based on the work of the Group of Experts on Restorative Justice at their meeting held in Ottawa from 29 October to 1 November 2001. Their report forms the Annex to the resolution (United Nations Commission on Crime Prevention and Criminal Justice 2002). This important document can be found in Appendix 2 at the end of this book.

Below is a summary of the main points from the resolution passed by the Commission (made up of representatives from all the countries who attended the session), which:

1. Takes note of the basic principles of restorative justice.
2. Encourages Member States to draw on these.
3. Requests the Secretary-General of the Commission to ensure the widest possible dissemination of the principles among Member States and other institutions.
4. Calls upon Member States that have adopted restorative justice practices to make information available to other States on request.
5. Also calls upon Member States to assist one another with research, training and exchanges of experience.
6. Further calls upon Member States to consider, through voluntary contributions, the provision of technical assistance to developing countries, on request, in the development of restorative justice programmes.

As can be seen, there is encouragement but nothing mandatory, unlike the European Council Framework Decision. I was actually at the session at the UN Crime Commis-
sion, and although the original resolution was much more strongly worded, there were some countries which did not want to see restorative justice as a binding obligation on their government. However, the principles were left intact in an Annex (see Appendix 2), a tribute to the work of the Group of Experts.

Despite the weak wording of the resolution passed in 2002, it had a definite effect in encouraging Member States to initiate restorative justice programmes.

At the next UN Congress (a larger meeting than the annual Commission, taking place every five years) in April 2005, one of the four official UN all-day workshops was on ‘Enhancing criminal justice reform, including restorative justice’. It included an overview of restorative justice around the world and three examples of best practice, covering victim–offender mediation, conferencing and circles, from Canada, Thailand and New Zealand. As host country to the Congress, Thailand was particularly keen to demonstrate its involvement in restorative justice – mainly the conferencing model, with training from the International Institute for Restorative Practices in the US. Contributions from the floor gave the impression that most countries felt that restorative justice was something they should be involved in; even countries such as Turkey and Iran contributed their ideas for taking restorative justice forward. The Bangkok Declaration summing up the Congress included a paragraph (no. 32) on restorative justice:

To promote the interests of victims and the rehabilitation of offenders, we recognize the importance of further developing restorative justice policies, procedures and programmes that include alternatives to prosecution, thereby avoiding possible adverse effects of imprisonment, helping to decrease the caseload of criminal courts and promoting the incorporation of restorative justice approaches into criminal justice systems, as appropriate. (United Nations 11th Congress on Prevention and Criminal Justice 2005)

Summary

This chapter has looked at a variety of restorative practices around the world, from the well-established schemes in North America, Australasia and Europe, to the emerging initiatives in Central and Eastern Europe, Africa, Latin America and Asia. Several of the latter try to build on indigenous restorative traditions. The chapter finishes with the historic UN Resolution of 2002, which has encouraged further growth of restorative practices.

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CHAPTER 12

Restorative Justice in Complex and Sensitive Cases

Introduction

Restorative approaches to some very serious cases and complex cases, such as murder, have already been described in Chapters 8 and 9, especially the latter. This chapter covers restorative justice in cases where there is sometimes disagreement about whether there is a place for restorative justice:

- domestic violence/abuse
- sex offences/sexual abuse
- hate crime
- gangs.

These are all crimes in which there are power issues (although gangs are slightly different from the other three), so that there is the danger that restorative justice can reinforce the ‘status quo’ – a mediation session may seem to go extremely well, with agreements reached on all points – but only because the less powerful party may agree from fear of later retribution.

However, putting restorative justice out of bounds because of this (very real) danger often only leaves people in abusive situations which continue. So this chapter looks at ways in which practitioners have tried to use restorative approaches without re-victimising victims or rubber-stamping abusive situations.

Most of the examples come from the UK, but there are also some from other countries to show interesting developments in other parts of the world. They are chosen simply from personal knowledge about them; an internet search would probably reveal many others.

DOMESTIC VIOLENCE/ABUSE

I have included both labels here – domestic violence and domestic abuse. The first is the more well-known label, but it is now recognised that domestic abuse does not have to be violent. A man who says ‘I’m not violent, I just look at my wife and she does what I tell her’ is playing on her fear of what may happen if she disobeys – the threat is there.
Victim Support in England and Wales has adopted the following definition of domestic violence:

Any incident of threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) between adults who are or have been intimate partners, or intimately related within a family or domestic setting, regardless of gender or sexuality. Domestic violence involves abuse of power and control by one person over another and typically escalates in frequency and severity over time.

(Victim Support 2003, p.2)

Many women’s organisations believe that restorative justice has no application to domestic violence, and that victim–offender mediation can only be dangerous. This point of view is understandable, given the relatively recent acknowledgement of domestic violence as a crime. It is not so long ago that domestic violence cases were still seen as private affairs where men had the right to do what they liked, and women were held to blame if they were abused. Women’s organisations rightly do not want to see the clock turned back and domestic violence ‘privatised’ by restorative approaches (Home Office 2004a).

However, many victims of domestic violence end up dropping charges and returning to their abusive situations, so prosecution does not provide a solution for everyone. There have been (and still are) several projects which have used restorative approaches with domestic violence/abuse, to provide an alternative to prosecution for those who want it.

In the examples below, the UK comes first, then community-based initiatives in other countries (Canada, South Africa and Thailand), then court-based schemes (Austria, Finland and North Carolina, US).

**United Kingdom**


What would be the benefits and disadvantages of developing more specific principles in particular areas – for example for sensitive offences such as hate crimes, sex crimes and domestic violence? (pp.35–56)

The responses showed that views were strongly polarised: ‘Domestic violence specialists were strongly against their use in any such cases, while proponents of restorative justice thought they could be beneficial in some cases’ (Home Office 2004a, p.13). The arguments against the use of restorative justice centred round the risk of re-victimisation, the power imbalance and the seriousness of domestic violence. Those involved in restorative justice cited the right to choose, the use of highly skilled facilitators and a multi-agency approach. The government conclusion was that more evidence was required on what works for victims (Home Office 2004a).
Accordingly, the subsequent publication *Best Practice Guidance for Restorative Practitioners*, based on discussions with many restorative justice organisations, under Section B: Sensitive and complex cases, says: ‘The use of restorative processes in domestic violence cases is not agreed; the government’s forthcoming paper on domestic violence will address this issue’ (Home Office 2004b, p.33). At the time of writing (August 2006), this paper was still awaited. Meanwhile the Domestic Violence, Crime and Victims Bill was passed in November 2004, providing new powers for courts to deal with perpetrators of domestic violence, closing some anomalous loopholes and giving victims statutory rights (Home Office 2004c). These are enshrined in the *Code of Practice for Victims of Crime*, launched in April 2006 (Home Office 2006). However, restorative justice is not included.

Nevertheless, there have been and still are projects in the UK where mediation occurs in situations of domestic violence. Some of these are outlined below.

**Plymouth Mediation**

As in many other places, there was concern that the court system, although recognising the seriousness of domestic violence, was not able to deal with some of the cases. Often a woman would make a complaint and then withdraw it later, either under pressure from her partner or because she did not want to go through the trauma of the court process. This led to the development of a victim–offender mediation scheme for victims and perpetrators of domestic violence.


In recognition of the dangers of mediation in these cases, the scheme had three phases.

1. Both parties were interviewed (separately) to explain the scheme and assess whether the man was prepared to take responsibility for his actions.

2. The second phase included separate tracks for the parties. The man was required to attend a perpetrators’ group run by the probation service, to learn about the power-based nature of domestic violence, how to stop being abusive and how to make more equal relationships. Meanwhile, the woman was offered counselling to help her think through whether mediation would be the right way forward for her.

3. When the second phase had been completed, if both parties wanted to go forward to mediation, this was arranged through Plymouth Mediation.

(Peacock 2006; Plymouth Mediation 1996)
Family Mediation

Although this book is not about family mediation, it is worth noting that the UK College of Family Mediators has a Domestic Abuse Screening Policy. Excerpts from this include:

Separate screening for domestic abuse must be carried out in circumstances that allow free, frank and safe discussion of the issues of domestic abuse to take place and a fully informed choice to be made by the participants as to whether or not to proceed to mediation.

In cases where the abused person has made an informed choice to mediate, the mediator's responsibility is to ensure that appropriate arrangements are agreed which as far as possible guarantee that relevant safety issues are addressed and reviewed.

If mediation does not proceed, mediation must be terminated safely, other alternatives to mediation explored, and appropriate advice and referral possibilities considered.

(UK College of Family Mediators 1999)

From this it is clear that family mediation takes place on some occasions where domestic abuse exists; it is for the abused partner to decide, after discussion, whether to proceed with mediation.

The Daybreak Dove Project

The Daybreak Dove Project was set up in 2001 to use Family Group Conferences (FCGs) (see Chapter 4, pp.84–6) to address situations of domestic violence. The FGCs are based on the following principles:

- It is members of the extended family who have the intimate knowledge about their own family, including who is safe and who is not safe around vulnerable people.
- Members of the extended family have a life-long commitment to each other.
- People are more committed to carrying out plans if they are involved in the decisions.
- Good decisions are based on high-quality information, so meetings need to be open and honest.
- People work together better if there is mutual respect.
- If agencies identify and work with strengths of a family, a good outcome is more likely.

By involving the wider family network, any secrecy about the violence is broken, and the community of those committed to the safety of the victim and children is extended.
The meetings have two targets: to make all members of the family safer and to promote the welfare of children.

The project is not about keeping families together, and takes great care not to re-victimise the victim, who has to agree with all the arrangements, especially who is invited to attend. The perpetrator is only invited if he is still in the same household as the victim, and if he acknowledges the abuse and is willing to address it (Taylor and Powney 2005).

Case study: Family Group Conference in situation including domestic violence

*This case shows how communication through Family Group Conferences can still be achieved in situations of domestic violence.*

The case was referred by Social Services. The family consisted of Bess and Leonard and their two children, Chris (aged four) and Jeremy (aged three). The two boys had been removed and placed into foster care due to drug-related neglect. Six months had passed with no progress by either parent. So it was decided to arrange an FGC to look at alternative plans; in particular placement and possible adoption by an extended family member.

Both parents were very elusive initially but quite cooperative once contact was finally made. They too were concerned at their lack of progress and welcomed an FGC to look at options. Extended family members were also quite concerned about the two boys. All parties were particularly concerned about the possibility that the boys could be adopted outside the family.

Three days prior to the conference, the mother separated from the children’s father and moved into a refuge for victims of domestic violence. In her fragile emotional state, she did not feel able to attend a meeting at which the father was present. This stance was strongly supported and the possibility of postponing the conference was considered. However, it was ultimately decided to go forward with the original date, given the need to present an agreed plan at an upcoming court hearing.

A decision was made for Bess to write a letter expressing her thoughts and ideas that would be shared with the family during the private family time. In addition, it was planned that Bess would participate by telephone during the meeting itself.

At the FGC, the family’s primary plan was for the children to return to one or both parents. The secondary plan was for adoption by the maternal aunt. Visitation arrangements for both parents were outlined. A plan was developed to support and assist the parents in their efforts to rehabilitate themselves and get back on their feet. At the same time an adoptive study was to commence and the aunt was to begin visitation with the children in anticipation of placement. The paternal grandparents and paternal aunt expressed a desire to have more contact with the boys. As such, a weekend visitation plan for them was also worked out.

The first review meeting was held two months later and a second one two months after that. In the interim, the maternal aunt decided she could not adopt the two boys, because of their special needs and the needs of her own young son. No other relatives felt able to take on full-time parenting responsibility. Leonard was visiting the boys regularly.
but was believed to be still using drugs (and had not participated in any services that indicated otherwise).

However, Bess (still in the women’s refuge) was participating in a methadone maintenance programme. She was visiting the boys regularly and complying with all service requests. Fourteen months from the date of the initial conference, she was still clean and sober. She moved into her own two-bedroom flat that family members helped her furnish and where her two boys were able to join her every other weekend. It was planned that the boys would return to her care on a full-time basis within a few months.

Canada

In Newfoundland a Family Group Conferencing approach to domestic violence showed decreases in:

- substantiated child abuse/neglect
- crises needing an emergency response
- indicators of spouse/partner abuse

amongst those families taking part. In contrast, families not involved changed overall in a negative direction, measured by the same indicators (Pennell and Burford 1997).

Pennell and Burford also found that, by involving the wider family network, any secrecy about the violence was broken, and the community of those committed to the safety of the victim and children was extended.

Aboriginal/First Nation communities have well-developed systems for dealing with domestic violence offences in restorative ways. They regard any misbehaviour as a sign that teaching and healing is needed, not punishment. Rupert Ross has written about cases of domestic violence where people from the community worked with everyone involved, and (with the offender’s agreement) proposed a whole package of measures to tackle all the problems, of which the domestic violence was only the tip of the iceberg: alcohol treatment, couple counselling, and a family healing workshop to include the children, who had witnessed the violence (Ross 1996).

South Africa

In a large victim–offender conferencing (VOC) project, covering three districts near Johannesburg from 1999 to 2003, many of the cases concerned domestic violence, which is held to be very prevalent in South Africa. The Domestic Violence Act was introduced in 1998 to provide women with legal protection from domestic violence. It has a wide definition of domestic violence, and also a wide definition of ‘domestic relationship’. Cases in the VOC project area could be referred by courts and other agencies, to see if VOC could help more effectively than the court process.

In the context of South Africa, magistrates were keen to refer to the VOC project, as they felt that the court penalties were counter-productive. If they fined an offender for assault, then there was less food on the table and the family suffered. If the offender went to prison, the family was often destitute; and when the man came out of prison, the
stigma of prison prevented him getting re-employed. The victims were often blamed for this. Sometimes women would refer themselves to the VOC project because the court proceedings were taking too long and they wanted to get things sorted out. Court cases could be dropped or postponed to see if the agreement was fulfilled.

The percentage of cases involving domestic relationships (i.e. cases where victim and offender lived under the same roof) increased over the three years of the project, from 43 per cent to 58 per cent to 76 per cent, partly because mediation seemed to be successful and partly because of a decision to increase the number of serious cases. So during the last year, a larger proportion of grievous bodily harm cases were mediated. In all, 660 cases were mediated over the three years.

During the last year of the project, a total of 139 cases were mediated, of which 27 (19%) concerned domestic violence. One hundred and thirty-five resulted in agreements, which included apology, dropping charges, reparation, respect, stopping abuse, stopping drink/drugs, referral to substance abuse counselling, other counselling, reconciliation, relationship terminated, protection order, improvement of communication, visitation rights, maintenance, improved living arrangements and referral to other agencies (Dissel 2000, 2003, 2004).

As restorative interventions are regarded as risky by many, Amanda Dissel and her colleague Kindisa Ngubeni researched the impact of VOC on female victims of domestic violence. They contacted 21 women who had completed mediation. Most of them felt that mediation had provided a safe space where their personal safety was not threatened, and where they could tell their stories, speak their minds and be heard, often for the first time. The ground rules of mediation and the presence of the mediators helped them feel safe and able to speak on an equal basis to their partners.

The women were interviewed again about one year later, to assess whether there had been any lasting change in the behaviour of the offenders. In all cases the women mentioned positive changes in behaviour and conduct towards them, with no further assaults or verbal abuse. All the women who were still with their partners said that relationships and communication had improved following the VOC. Those who had separated said that the VOC had helped them to negotiate the terms of this. The researchers concluded that restorative justice can be successfully used in domestic violence cases, and that it can result in lasting and meaningful change. Of course the necessary safeguards need to be in place: preparation, informed consent, training and impartiality for mediators (Dissel and Ngubeni 2003).

Some of the Peace Committees in South African townships (see Chapter 11, p.276) also consider a wide range of cases, including domestic violence. These are local community-run services which sort out cases brought to them by victims.
Case study: Peace Committee hears domestic violence case

A young woman came to the Peace Committee complaining that her boyfriend had been beating her. A peace gathering was convened, and the victim brought her sister and a female friend, while the young man brought a male friend. Five Peace Committee members attended: four women and one man. The young man readily admitted beating his girlfriend and apologised; the victim accepted the apology and offered forgiveness. Fortunately, this stereotyped exchange was not allowed to rest there – one of the Peace Committee members asked everyone in turn if they were satisfied with the apology. When it came to her turn, the victim’s sister explained that the offender had apologised several times before for similar behaviour, only to re-offend soon after. She asked, ‘What is different this time?’ The Peace Committee warned the young man that if he continued to beat his girlfriend, they would help her go to the police and bring charges against him. (Roche 2003, p.86–7)

Thailand

As everywhere else, domestic violence and especially spouse abuse is coming to be seen as a problem to be dealt with, rather than just a fact of life to be endured. Angkana Boonsit, a senior probation officer from Thailand, conducted research into domestic violence. The Thai proverb ‘Don’t let inner fire out, don’t bring outer fire in’ sums up the Thai attitude to family affairs. Criminal justice responses can provide initial safety for the abused spouse, but are not regarded as satisfactory in resolving the situation, as there is considerable shame attached to going to the police, and similar fears of poverty apply as in South Africa. Boonsit’s research examines restorative conferencing models which could help, and the Harmony Family Project was started as a pilot project for three months, to deal with physical assaults. However, husbands often refused to participate, as they did not want anyone to intervene (Boonsit 2005; Boonsit, Claasen and Piemyat 2004).

Austria

Austria has one of the best-researched mediation programmes for domestic violence. Victim–offender mediation has been practised with juveniles since 1985 and adults since 1992 (see Chapter 11, p.269), and mediators are full-time practitioners of mediation and also trained social workers. In cases of domestic violence, where the state prosecutor diverts a case from court to see if mediation can help, the mediators work in pairs, one man and one woman. They invite the couple (if both parties agree) to the Victim–Offender Mediation Centre and first speak with them separately: the male mediator talks to the man, the female mediator talks to the woman. These discussions are designed to elicit what the two partners want from the mediation, and in particular how they see their future relationship – whether they want to stay together or to separate.
After that, all four meet together. The mediators sit opposite each other, and the partners sit opposite each other, each partner sitting next to their mediator. The session starts with the mediators telling the stories of each party, while they listen; then the parties have the chance to correct or modify their story. This then develops into an exchange between the partners, which the mediators interrupt when they deem appropriate, to give their reflections on what is happening. This ‘distancing’ effect promotes ‘recognition’, which is a pre-requisite of empowerment: balancing existing power imbalances and supporting the weaker party.

Mediation is often attractive to parties because there are several ways in which court procedures may be unhelpful in domestic violence cases:

- The perpetrator does not have to take responsibility; the judge decides.
- The victim often feels guilty if a sentence is passed.
- The perpetrator blames the victim.
- The victim is in a passive role of witness.
- The victim can be re-victimised by the process.
- The victim learns: next time, don’t report it.

However, certain preconditions are needed for mediation:

- The victim has to agree.
- The violence has to stop.
- The perpetrator has to take responsibility.
- The perpetrator is the only one to blame – not the victim.
- The process only goes ahead with the agreement of the victim.

(Glaeser 2004)

Mediation in cases of domestic violence was researched by Christa Pelikan (2000), both by observing 30 mediations and by conducting follow-up interviews, separately with each partner, of up to two hours. These interviews were repeated three to four months later. In addition Christa Pelikan talked to the mediators about each case. For comparison an equal number of criminal procedure cases were researched in the same way.

The results of this research suggested a typology of cases:

1. **Victim–offender mediation as reinforcement of change**

   (a) Mutual change – these were cases where the domestic violence was an unusual incident, a shock, and where both parties had decided they needed to re-negotiate their relationship. The mediation confirmed the woman’s right to preserve her physical integrity and so empowered her to negotiate the changes she needed. The court process, however, did not help with this.
(b) Reinforcement of change enforced by the woman – these were cases where the woman had suffered a long time and had then decided ‘Enough!’ and took action to end the relationship and leave. Sometimes this resulted in abusers trying to change their ways, for fear of losing their family. Cases where men continued to deny their behaviour were handed back to the state prosecutor. Victim–offender mediation again confirmed the woman’s right to stand up for herself and achieve a cessation of abuse. The later interviews showed that the changes the men had made actually lasted.

2. Victim–offender mediation as the beginning of reformation

These were cases which started with complete denial, but, through the discussions and support for listening, resulted in the man being at last able to confront what he had done. The recognition and empowerment of the woman enabled her to speak up about the effect on her. For the man this could be the beginning of making a change in his behaviour.

3. Victim–offender mediation supporting separation

These are cases where mediation can empower women to negotiate separation arrangements and future relationships based on this (e.g. how they will behave if they meet again by chance).

4. Victim–offender mediation at its limits

These are cases where the woman does not have the resources (internal and external) to stand up for her rights, and where, even if agreement is reached during mediation about future behaviour, it breaks down and violence recurs. This is particularly likely to happen in cases where the violence has a component based on addiction, for example alcoholism.

The conclusions drawn by Pelikan were:

- The potential or strength of the mediation process lies with reinforcing processes of empowerment or liberation that are already on the way.
- Only very rarely does a conversion or reformation of the perpetrator take place.
- In victim–offender mediation, to promote and enhance a process of empowerment, the existence of personal resources – of both victim and offender – is a prerequisite. Otherwise the intervention remains futile.

One of the hoped-for outcomes of this research was a typology that would indicate which domestic violence cases would respond to mediation. This was not possible because so much depended on the parties’ responses rather than outwardly visible
criteria. Pelikan’s conclusion was that victim–offender mediation could be helpful in a wide range of cases (though not all), in reinforcing empowerment and freedom from fear and violence within a relationship. But the ‘suitable cases’ can only be ascertained by a process involving a step-by-step assessment process involving mediation and victim support services.

The message of this research is that one cannot approach domestic violence cases with a ‘one size fits all’ response, as they are not all the same. Mediation can be helpful for the cases described above, and it is clear that a court process would not be able to help in the same way. The safeguard is that unsuitable cases can be referred back to the state prosecutor as soon as the unsuitability becomes clear. A research study found a high degree of satisfaction from women concerning victim–offender mediation, especially in cases of domestic violence (Altweger and Hitzl 2001).

Finland
Cases of domestic violence have been referred to mediation in Finland. A research project reviewed the data from 2001–2003 from four courts in different towns and cities. Of 416 cases reviewed, 116 were handled in court and 242 were referred to mediation. Of the 116 sentenced cases, 19 were later mediated. The research included interviews with offenders, victims, mediators, judges, magistrates and project staff. The main criterion used in deciding whether to refer a case to mediation was the seriousness of the offence – serious cases were handled by the court.

The motives of the parties to participate in mediation were:

Victims:
- They did not want to go to court (e.g. because they felt shame).
- They did not see punishment as a solution of the problem.
- They needed the relationship to change.
- They wanted to find out the reason for the domestic violence.

Offenders:
- Mediation seemed a reasonable way forward if the violence was occasional.
- Punishment would weaken the finances of the family.
- Relationship difficulties could not be handled by the court.
- Some agreed to mediation because the victim asked.
- There was a hope that mediation might lead to a lesser sentence.

Most of the agreements included apologies, commitments to a change of behaviour and promises to attend groups for violent men. These were followed up and 90 per cent were fulfilled. Satisfaction rates showed that two thirds of participants were satisfied, both victims and offenders. One year after mediation, nearly all the couples were divorced, and most of the violence had stopped.
As in the Austrian research, it was not possible to identify beforehand suitable cases for mediation: this has to be decided as cases proceed, on a case-by-case basis (Flinck and Iivari 2004).

**North Carolina, US**

In 2002, Carolina Dispute Settlement Services (CDSS) was asked by the jurisdiction in one county to mediate cases brought to the domestic violence court. Research was carried out in 2005 (Bryant *et al.* 2005) to compare domestic violence re-offending outcomes two years after mediation with outcomes either following a court appearance or after release from a prison sentence. One hundred mediation cases reaching agreement were compared with 108 court cases.

In North Carolina both complainants and defendants have incentives to use mediation. Defendants avoid getting a criminal record and complainants can bring back the case to court if agreements are not kept.

All the cases handled by CDSS were mediated in the local court house, where the physical security of victims was high. Everyone passed through the security checkpoint that included a metal detection device for weapons. The sessions were held in conference rooms next to the court room, so that police would be within shouting distance in case of problems. The sessions generally took place at the same time as the court was sitting, so that judge, prosecutors and defence attorneys were all usually available.

The re-offending rate for the 100 mediated cases was 16 per cent. Of the 108 court cases, victim non-appearance and lack of evidence led to the dismissal of 59 cases. For the 49 court cases that took place, the re-offending rate was 43 per cent.

In cases where the defendant had no previous criminal record, the difference was even more marked: only two out of the 55 mediated cases re-offended, compared to six out of 16 court cases. Thus it would seem that mediation is more effective than the court process in preventing re-offending.

**Case study: North Carolina – alleged harassment**

Kathy and Mark, both in their mid-thirties and co-workers, attended mediation at the request of the judge hearing Kathy’s request that a ‘No Contact Order’ be placed on Mark, based on alleged harassment. The mediator completed the introduction and turned to Kathy to hear her side of the dispute.

Kathy began by saying that she and Mark had only worked together for a short time and had developed a casual friendship. On a holiday weekend, Mark was to pick up Kathy and take her and her children to a cookout with his wife and children. However, when Mark arrived, Kathy was at home on her own and her children were not there. Kathy reported that Mark then raped her. Mark became agitated hearing Kathy’s story and eventually shouted at Kathy accusing her of lying. At length, the entire story emerged.
Mark and Kathy did develop a fast friendship that became sexual that afternoon. It was Kathy, however, who made the sexual advance. Mark’s report of their encounters was that they affected his life profoundly, and he was considering leaving his wife and family. Mark and Kathy had more than one sexual encounter but did not share this with anyone else because Mark was still married with children and Kathy was afraid of her husband Steve. Kathy and Steve had separated a year previously, after a domestic violence Protective Order issued by a judge. As the Protective Order was about to expire, Kathy knew she would either have to explain her relationship with Mark or end it. Steve suspected she was seeing someone else and, when he confronted her, he also provided her with what she perceived was a safe way out: he asked if her sexual encounters with Mark had been consensual. She answered no, believing that Steve would leave her alone. Steve, however, pointed out that if their sex wasn’t consensual, then it must be rape and charges should be brought. Kathy was able to re-direct Steve’s anger from her past allegation of rape to the placement of a No Contact Order for the future against Mark.

Both Mark and Kathy stated that if their case had gone before the judge, they would have been forced to stick to the stories they had made up. Mediation provided a forum for them to review what had happened between them, express their love for each other and recognise that they could not be together or have any kind of personal relationship. Kathy wanted to know that Mark did not think of her as ‘just a piece of meat’ and Mark needed to hear that Kathy was pressured into making rape allegations by her husband. Kathy acknowledged that her allegations not only hurt Mark very deeply but also could have had a devastating effect on his life and that of his family. After the session, Kathy was counselled privately about domestic violence resources and developing a safety plan.

Both Kathy and Mark agreed to request that the No Contact Order be lifted. They agreed that they would have no contact with each other outside their workplace. Mark had already requested redeployment at their workplace so that they were stationed in different areas and worked different shifts. They agreed that in the future, if they should happen to encounter each other in the workplace, they would treat each other as professionals.

**SEX OFFENCES/SEXUAL ABUSE**

Sex offences/sexual abuse is another field where similar considerations apply. There are many reasons for not arranging meetings or even communication between parties where one of them has committed a sexual offence against the other:

- any such contact may re-victimise the victim
- the power difference may make the process abusive
- some sex offenders may use the meeting to re-stimulate themselves
- many sex offences are regarded as too serious for a restorative approach
- many of the victims are children (e.g. child sex abuse cases).
Nevertheless, there are occasions when letters, videos and meetings have been important opportunities for victims to feel empowered and able to put events behind them. It can also help to negotiate future relationships if the parties are likely to come across each other in other situations.

Again, this section starts with UK examples, then further examples from Canada, South Africa and Denmark.

**United Kingdom**

Probation: Meetings between sex offenders and victims

Some probation officers in the past have undertaken mediation between sex offenders and their victims, emphasising that this was primarily at the victims’ request, if and when they felt it would be helpful to them, and with extensive preparation of both sides. Most of these meetings took place in prison. They enabled the victim to tell their abuser the damage he had caused, and to let go of any guilt or responsibility they felt; the perpetrator to realise the extent of the harm he had done; and both to negotiate any future contact when the prisoner was released (Lynch 1993; Monk-Shepherd 1995).

**Case study: Father–daughter abuse**

The perpetrator and his teenage daughter had been extremely close. Work began while the father was on bail and continued in prison after sentence. Through the mediation sessions, the father realised that his daughter continued to take responsibility for the abuse and all its damaging consequences, including his imprisonment. He then acknowledged the need for further long-term work to address this.

(Monk-Shepherd 1995, p.30)

Many such cases have far-reaching effects on the family and all its members. Jean Wynne described a case (Wynne 1991) in which mediation between the offender (aged 17) and his four-year-old niece was never an option; nor did the offender meet with his sister, the little girl’s mother. But meetings and discussions took place between the offender and his parents (grandparents of the victim); between the child’s mother and her partner; and between the child’s mother and her mother. These helped repair relationships and also enabled referral to other sources of help.

**Working with adolescent offenders**

Many cases involving sex offending by young children are referred to Social Services and dealt with by their child protection teams as ‘abuse’. With older teenagers, sex offending may be treated as a mental health issue, and they can be sent to secure mental health facilities for therapeutic regimes. However, with the introduction of Referral Orders (see Chapter 7, p.150), some serious first-time offences are being dealt with by Youth Offender Panels. Included in these are a small number of sex offences. Some
Youth Offending Teams have set up special teams within the overall team, or refer to a similar team outside the YOT.

Leeds Youth Offending Service has a specialist who works with sex offenders and may contact the restorative justice team if there are concerns for the victim. The Victim Liaison Officer (VLO) in the restorative justice team visits the victim to see what help can be offered. Although most of the work takes place with each party separately, sometimes this leads to indirect communication of information, as the example below shows.

**Case study: Referral Order – indecent assault**

A youth of 15 was convicted of indecent assault and sentenced to a nine-month Referral Order. The victim was five years old at the time and the offender had gained access to her because he was her older brother’s best friend. This meant that he had spent a lot of time in their home and often spent the night there.

Most of the VLO’s contact was with the victim’s mother but there was also contact with the victim’s sibling and two sessions with the victim. The victim’s mother wanted the VLO to attend the Panel Meeting (see Chapters 4 and 7) and the reviews throughout the Referral Order. She wanted questions asked of the offender and her feelings communicated to him. She was also interested in feedback on the content of the contract/agreement and the progress of the Order. The family were able to express their feelings and were reassured. The young man did not commit any further offences during his Referral Order.

**Case study: Sex offences – work with victim**

A boy of 15 had committed several indecent assaults and rapes over a period of eight years. He was seven years old when he began to abuse his three half-siblings, the children of his mother’s partner (with whom he lived). The victims were aged ten (a girl), eight (a girl) and five (a boy) when the abuse began.

He was sentenced to three years’ custody under Section 90/91, with a five-year extended licence. There was close liaison with the probation victim services officer throughout the case.

Intervention was in the form of single party work. The victims were angry, frightened and disempowered. The mother and the girls wanted to know what work would be done with the offender, and a meeting was arranged with the Youth Offending Service sex offender coordinator, who explained the general approach taken in such cases.

Assistance was given with applications to the Criminal Injuries Compensation Board and compensation was awarded. The mother was enabled to attend a parents’ group for parents of sexually abused children, and general emotional support was provided to the family.
The AIM project

The AIM (Assessment Intervention Moving on) project was established in 2001 with Youth Justice Board funding for three years, and now works across the ten local authorities and key agencies in Greater Manchester to establish consistent responses to children and young people who display sexually harmful behaviour. The project is not a service provider; its role is one of development, coordination and support to practitioners and managers working with this group of service users.

The project is currently funded by the local authorities, Youth Offending Teams and NSPCC in Greater Manchester; it also works with other local authorities on a national basis, adapting and helping them adopt the work, tools and materials established by the project.

The project has developed policies and procedures for this group of children and young people that are written into the child protection procedures of the ten local authorities in Greater Manchester. Anchored within these policies and procedures are initial assessment models for: under-tens, adolescents, adolescents with a learning difficulty, and parents and carers.

The assessment models provide a continuum of responses ranging from early community-based intervention with low-concern cases to intensive work with high-concern cases. The models are holistic in nature and pay equal attention to both concerns and strengths that are identified.

Layered on top of the AIM initial assessment for adolescents is an assessment framework which guides the practitioner to consider the potential for restorative intervention. This framework addresses the needs/wishes of the:

- offender/abuser
- victim
- parent/carer of both the abuser/victim
- non-abused siblings of the abuser/victim.

The framework provides practice guidance and suggests the formation of questions that need to be asked in the range of areas such as:

- readiness to participate
- support mechanisms
- the nature of the relationship between victim and abuser
- knowledge of the incident
- the degree to which responsibility is placed on the abuser
- the position regarding the victim’s disclosure
- acceptance of responsibility
- acceptance of new family rules
- expectations.
The framework aims to assess the suitability of a ‘face-to-face’ restorative approach, and uses a Family Group Meetings model, primarily because:

- it can provide restorative links across the victim/offender divide
- it involves and engages the family (of both the offender and the victim)
- it enables a ‘welfare’ or ‘planning only’ approach if a restorative element is not appropriate
- it has a victim focus.

(Henniker and Mercer 2006a, 2006b; Print, Morrison and Henniker 2001)

Case study: Sexual abuse by teenager of six-year-old

Peter (aged 15) sexually abused his six-year-old cousin Sally over a period of time. He was convicted of sexual assault and initially given a 12-month Detention and Training Order. On appeal he was given a 12-month Referral Order. Sally’s parents were contacted but chose not to participate, as her father was still very angry and had shut down contact with Peter’s mother. The grandparents on that side of the family also broke off contact with Peter’s family.

Peter’s 12-year-old sister Rachel was also very affected – she missed the contact with her grandparents and felt uncomfortable at the ‘family story’ constructed to protect Peter, as it was not the truth. She also worried about her mother and her youngest sibling.

Peter was full of remorse about what he had done and the rifts he had caused within the family, in particular the worsened relationship between his mother and her boyfriend because of all the pressure. He also felt bad about the effect on his sister as she had lost contact with their grandparents as well as with Sally.

Although Sally’s parents did not want to be involved, a Family Group Meeting (FGM) was clearly needed just for Peter’s family – attended by Peter, Rachel and their mother, as well as the facilitators. The purpose of the meeting was to understand how all of them had been affected by the offence, to hear Peter accept responsibility for the offence and his explanation of how it happened, to receive reassurance as to safety in the future and to ask questions of the professionals involved in the case. In addition the final FGM made a plan for improved communication between family members.

It was the first time they had spoken about the offence as a family, and they all cried at some point. Peter said the worst thing was seeing his mother and sister upset. Rachel said the most important thing was learning about why Peter had committed the offence. They were all glad to have had the meeting.

Family Group Conferences

The Daybreak Dove Project has been described earlier in this chapter. Some of their Family Group Conferences may include sex offences, as the case study overleaf shows.
Case study: Family Group Conference in situation of alleged sexual offences

This case study shows how FGCs can contribute to safe practice in cases where sex offences are part of the family situation.

The case was referred by Social Services. The household consisted of Teresa and five of her children, aged from 13 down to 1½ years. Teresa also had an older daughter aged 16, who resided with her father and had little contact with her mother or siblings.

Stephen, the father of the youngest two children and Teresa’s husband, had moved from the family home following allegations of sexual misconduct involving the 13-year-old daughter. This was the second report of this nature; two years previously similar allegations of victimisation were reported by the 16-year-old daughter. At that time the court ruled in favour of the father and he returned to the family home. At the time of the FGC referral, a criminal court case was again pending – this time with reference to the latest allegation.

The mother’s belief that the allegations were true tended to ebb and flow depending on how she was coping. She was feeling very isolated and overwhelmed by the task of parenting all five children on her own, and was having difficulty separating emotionally from Stephen. Social Services was concerned that she was still being manipulated by him and, as a result, that the children could still be at risk. Nevertheless, due to a lack of resources, Social Services had consented for the mother to supervise the father’s weekly contact with his two children.

Teresa came from a large family and both her parents and several siblings lived within a short distance. However, she had been estranged from most of her family dating back to the previous allegations of sexual abuse, when Teresa sided with her husband against her daughter. Nevertheless, Teresa reluctantly agreed that the FGC coordinator could contact the various extended family members. They agreed to attend the conference, although reluctantly and with low expectations.

At the meeting Teresa and her family agreed it was important for Teresa to separate both emotionally and physically from Stephen, and for Teresa to build confidence in her own ability to care for herself and her children independently of him. Consequently, it was agreed that there would be no contact between Teresa and Stephen, or the children and Stephen, until the Family Group Conference reconvened two months later. Teresa agreed to have her telephone number changed so that Stephen could not contact her. And any letters from Stephen would either be destroyed before opening or sent back marked ‘return to sender’.

In addition, the family felt strongly that Teresa should see herself as an ‘addict’. When she needed a ‘fix’ (i.e. felt the need to contact Stephen) she should instead contact her family for support. To curb Teresa’s need for a ‘fix’, it was suggested that Teresa keep herself as busy as possible – possibly with gardening or decorating (which had been strong interests in the past). Teresa agreed to keep in close contact with her family and her family agreed to keep in close contact with her. They also helped Teresa set up a structure and routine for her children, and agreed to care for them for a couple of hours, so that Teresa could get a break.
A review meeting showed considerable progress. Teresa was more willing to receive help from her family and agreed to her children staying overnight with her brother and his wife on occasion. The family also agreed to increase their contact and support—recognising that, while Teresa had made considerable progress, she was still highly vulnerable. The social worker was asked to contact Teresa’s GP to speed up the process of getting Teresa into individual counselling. The family also felt it imperative that Stephen participate in a sex offender treatment programme before visitation with his children resumed. Teresa herself suggested that her ten- and seven-year-old children should begin ‘keep safe’ work with the school nurse.

Circles of Support and Accountability for sex offenders

Circles of Support and Accountability for sex offenders have already been described in Chapter 3 (p.65). Although not restorative justice interventions in the sense that they do not involve the victims of the offenders concerned, they are restorative in that they help high-risk offenders not to re-offend, by befriending them and integrating them into the community. Some of the Circle members are themselves victims of sexual offences, and undertake this work as a means of self-empowerment, to help reduce the number of future victims.

Canada: Aboriginal Healing Circles

In Canada some Aboriginal/First Nations communities have developed alternative ways of dealing with sexual abuse (see also Peace-making Circles, Chapter 4, pp.95–8). In the Ojibway community, the accused may choose the normal criminal justice process (court) or a Healing Circle.

Case study: Hollow Water community

The community in Hollow Water (rural Ontario) met to discuss community problems, especially those committed by young people: substance abuse, vandalism, truancy, violence and suicide. They then shifted their concern to their families, often plagued by high levels of alcohol and drug abuse, as well as family violence. This led in turn to the discovery of wholesale cross-generational sexual abuse (80 per cent of the community estimated to have been abused, mostly by relatives), involving many members of the community. They developed the Community Holistic Circle Healing (CHCH) programme to deal with this. This includes a series of events to create a Healing Contract (which becomes the sentence), and a Cleansing Ceremony when the contract has been fulfilled – which usually takes at least two years.

Rupert Ross (1996) attributes this high rate of abuse to the systematic devaluing of Aboriginal culture, culminating in the late 19th and early 20th centuries, in the removal of all the children to government boarding schools to be ‘re-trained’, resulting in generations of distressed people.
When an allegation is made, two members confront the alleged abuser, while others in the team go to support all those who may be affected by the disclosure. The visitors to the alleged abuser let him know that criminal charges are about to be made, but that they will help him through the process as long as he makes an effort to accept responsibility and go through the healing process. (If he refuses, the normal criminal justice process follows.) The abuser is then formally charged at a police station, and encouraged to enter a guilty plea. The team then asks the court to delay sentencing as long as possible. During this interval, the team arranges separate Healing Circles for all the people affected by the case, for example the victim, the abuser, the non-offending spouse, children and other relatives.

When the case comes to court, the whole community attends (up to 200 people), ceremonies and prayers are performed, ground rules are outlined, then there are a series of go-rounds:

1. Participants say why they came.
2. Participants speak directly to the victim.
3. Participants speak directly to the abuser about how they have been affected.
4. Participants say what they expect of the abuser and what needs to be done to restore balance.

Then the judge passes sentence (based on the above) and the session closes with a prayer.

In 1995–6, out of 48 cases, only five abusers refused to engage with CHCH – the other 43 accepted and completed the process. Only two of these re-offended, at an early stage in the process.

(Ross 1995, 1996)

South Africa

In the VOC project already mentioned, about 1 per cent of the cases mediated were rapes or attempted rapes. The project report (Dissel 2004) describes two of the rape cases:

Case studies: Rape cases (South Africa)

- In one case, involving a 15-year-old girl and her 17-year-old boyfriend, it turned out that sex had been consensual (although illegal), but the boyfriend had forced her to stay late, and the girl’s parents had put pressure on her to lay a charge. The mediation took place without either set of parents; neither party wished to pursue the case in court.

- In a second case, the rape was forced and violent. However, the victim approached the mediator after laying a charge, as she and the rapist were friends. A meeting was held between the victim and offender, and the victim was able to talk about the incident and express her anger. The offender admitted the offence,
asked for forgiveness and began to show remorse. The victim wanted the offender’s parents to apologise to her parents, and a further meeting was arranged – however, the offender’s parents used this to insult the victim, thus re-victimising her.

The conclusion of the report was that mediation might not be the most appropriate route for such cases; and highlighted the need for extra training for such cases if they went ahead at all. Clearly in the second case study more preparation was needed with all parties.

**Denmark: Mediating rape cases**

The Centre for Victims of Sexual Assault at the University Hospital of Copenhagen receives referrals of 300 women (and a few men) per year who have suffered rape or attempted rape. Since 2002 the centre has offered restorative dialogues, in response to requests from women who asked for help in contacting the man who had raped them. It was difficult to start the project because of the conventional ideas of rapists as monsters attacking strangers. However, two thirds of rapes occur between people who already know each other, and these often leave questions in the minds of victims, as to why they happened, how the man saw the situation, etc. The offender is often the only person who can answer these questions.

The restorative dialogues are always initiated by the woman, who decides how and when contact with the offender is made. The process usually starts with the woman writing a letter (as this in itself can be cathartic) inviting the man to take part in the process. Often there is no reply, but even in these cases, the man sometimes takes a small action to comply with a request in the letter; for example, he may no longer go to the gym, where they used to meet. Some women receive replies, and this leads to further correspondence, and sometimes even a meeting.

For some women, a correspondence by letter is enough to empower them to feel they have regained some control in their life. When meetings occur, with the few men who agree to do this, the woman and the man tell their stories about what happened and its impact. An apology from the man is often the most effective communication in helping the woman to move on. Sometimes an agreement regarding the future is needed, if their paths are likely to cross.

**Case study: Lisa’s story (Denmark)**

Lisa was raped by a friend of her brother’s at a party in her own home.

I want to know his understanding of what happened. His thoughts of what took place on that night of the rape. Was I in any way provocative? I was asleep on a couch when he approached me, so I know I couldn’t have been. Yet it is a thought that keeps coming back. I would like to have his response, and to let him know how angry and hurt I feel. Then I think I can leave it behind and close this chapter.
She wrote a letter inviting the man to meet her:

Hi. I write to you because I want you to understand how I’ve been lately. We will run into each other at some point, and if that is not going to get too unpleasant, I would like you to know what I’m going through right now.

I’ve been having a difficult time since you assaulted me. I’ve had difficulties sleeping, been scared that I might be pregnant or have caught a sexually transmitted disease. And I have been mentally down.

How could you do this to me? Didn’t you hear I said NO? Didn’t you understand that you forced me into something I didn’t want? Are you not embarrassed? I was very drunk, and you were probably too, but that does not entitle you to do anything against my will.

What were you thinking of? You can’t abuse anyone like that. It has nothing to do with sex. Having sex is pleasant – this was not!

I don’t know if you can imagine yourself in my shoes. We were friends. I trusted you and now I have no confidence left. I feel humiliated and miserable. Something has happened inside me, I can feel it all the time and it is very uncomfortable. There is a sadness and a lot of unpleasant flashbacks about what happened that night. That’s what wakes me up and it’s what I think about all day long. At the same time I’m sad that the friendship we had has crumbled away.

I don’t really know how to get better. It turns my stomach to even think of you, but on the other hand I think that telling you this might help me. I have considered reporting you to the police, but that will lead to nothing. And I’m not interested in having you punished that way.

What is important for me is to tell you how much you hurt me, so that you’ll think twice next time and not do to others what you did to me.

I’d like to have an answer from you. Don’t call me, use my e-mail.

Lisa

She did not get a reply. But she said later:

Had I not written the letter, I think I would be even more scared than I am now to meet him, because I would not have taken any action to confront him. Now I can walk up to him and say ‘Hi, I know you’ve read my letter and I didn’t get an answer – why?’ I feel I have the strength to do that now.

(Madsen 2004, 2006; Madsen and Andersson 2004)

HATE CRIME

Hate crimes are some of the most difficult crimes to handle because they are based on prejudice, which is often deep rooted and not amenable to reason. Working with offenders on their own is quite tough going, as many of them are entrenched in their views. Restorative approaches such as mediation can provide another perspective that leads to some understanding, which can lead to an apology and changed behaviour for the future. People begin to see each other as human beings rather than just stereotypes.
The government has taken an interest in this area, setting up a taskforce in 2003, which reported in June 2006 (Home Office 2006).

**Southwark Mediation Centre Hate Crimes Project**

The Southwark Mediation Centre Hate Crimes Project was started in 2000 as a result of the rising levels of hate crime in the community – shown by behaviour such as egg throwing, spitting, smearing or depositing animal faeces, tipping rubbish, racial abuse, homophobic abuse, spreading of rumours, physical assault, damage to people’s homes and cars, broken windows, threats, noise and harassment. Many people (and their families) were traumatised, experiencing repeat incidents of harassment – living in fear, afraid to go out and worried about their children playing outside. Eight organisations came together, including the police and Southwark Mediation Centre, to form PPACTS (Police Partners and Community Together in Southwark). A Hate Crime Strategy for Southwark was devised and put in place. Over the next three years they achieved a 50 per cent reduction in the reporting of hate crime and in repeat victimisation in the borough.

By 2005 over 350 referrals were received (mostly for race issues), from the voluntary and statutory sectors, including the Anti-Social Behaviour Unit, housing, the police Hate Crimes Unit, Victim Support, community groups, community wardens and police beat officers, as well as self-referrals. Direct and indirect mediation were used, with written agreements in most cases. Only a few cases did not wish to use mediation and were referred elsewhere. Two particular areas in the borough provided the majority of the referrals. The findings of the Hate Crimes Project have been used to inform change at local and strategic levels concerning policy and good practice. Its success has led to several commendations. It has been highlighted in the media and in the Runnymede Trust research project Preventing Racist Violence, which focuses on perpetrators of race hate crime (Khan 2005). In 2004, during the London Week of Peace, four trained teenage peer mediators working on the Hate Crimes Project were given high-ranking police awards.

The role of the mediators in such cases continues over a longer period of time than is usual in mediation, and they monitor the situation until it has improved. Three to four months plus six months’ follow-up are quite usual – in more extreme cases, including multi-party disputes, up to a year. They also need to be continuously assessing the risks to all those involved. They work simultaneously with all parties, trying to build understanding and empathy. It is essential (as in all mediation) that they are perceived by all parties as non-judgemental. Working as part of a multi-agency initiative, they have good links with other agencies to signpost people to other services they may need.
Case study: Racist taunts leading to a fight and assault

This was a case where Mr and Mrs Magreb and their son Rashid, from Ethiopia, and Mr and Mrs Anderson, and their son Richard, an English family, were referred to the Hate Crimes Project because of an ongoing dispute between Rashid and Richard (both aged 14). On the occasion leading to referral, a fight occurred between the two boys, in which Richard punched Rashid, causing an injury, following racist taunts from Rashid. The matter was further complicated because Richard was on a Final Warning. The situation had begun to escalate, involving siblings and friends from both sides. Rashid’s father was adamant that his son would never use racist insults on anyone. Rashid was worried about what his father would say when he found out.

After several visits, two direct mediations took place, one between the parents and one between the two boys. In both sessions inter-cultural issues pertaining to difference (as well as similarity) were explored by the mediators. They related to language, culture, experiencing racism, expectations and the needs and wants of both parties. Both mediations resulted in written agreements. The parents agreed they wanted to live peacefully as neighbours and to support their children to do the same. In the case of any future incidents, they agreed not to involve others, but to sort things out directly between the two families. They agreed who would represent each family – Mr Magreb for his family and Mrs Anderson for hers. They also let each other know that they wanted to discipline their own children for any misbehaviour. The mediators explored the cultural differences in this, and how it had led to previous assumptions and misunderstandings as to whether the parents had taken any ‘action’ to discipline their children.

The boys met with each other and the mediators a week later. They agreed they wanted to sort things out, and agreed not to give each other dirty looks or spit. They agreed to go their separate ways if they met. Importantly, they also promised to tell their siblings and others not to provoke any incidents. The racial remarks were explored and they agreed that racial cussing was hurtful and that they would not do it any more.

(Southwark Mediation Centre 2002, 2003, 2005)

CALM Mediation Service Hate Crime Project

In 2003, CALM\(^2\) Mediation Service appointed a hate crime project worker, aimed at finding alternative solutions for those involved in hate crime (particularly race and homophobic crime) in Kensington and Chelsea. The main method used by CALM takes a conflict resolution skills/mediation approach.

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\(^2\) CALM stands for Confidential and Local Mediation.
Case study: Racial abuse, intimidation and assault

A self-referral came from Mr D, an elderly European man living on a local authority housing estate. Mr D was a carer to his two sisters who both suffered from mental and physical ill health. Mrs A was African and lived above with two children, aged six and eight. Mrs A also had a disability and was a survivor of domestic violence from an ex-partner who had left the property.

Mr D’s issues were around alleged physical and verbal assault, intimidation and noise from the children. He said that some years previously, Mrs A’s partner had punched him in the face and he had reported this to the police. On another occasion his sister had also been punched by Mrs A’s ex-partner. Two months before the meeting Mrs A’s mother had grabbed him by his clothes at the chest area and racially abused him. Mr D had then felt too intimidated to approach the family about noise issues.

Mrs A’s issues were that Mr D was racially abusive to her and her children and also ridiculed her about her disability. She said Mr D had made a threat to kill her son and had been arrested by the police. Mr D had called her an animal and told her to ‘go home to India’, which had caused her great offence as she was African. Mrs A accepted there had been problems in the past with noise but felt she had improved matters. She denied that her children played football in the house, as suggested by Mr D, and said she could not let them out to play, as the area was unsafe for them. She felt they were just being children.

About an hour of the meeting was spent with both parties making claims and counter claims against one another. Mrs A was very angry about past events. Then the mediators suggested there was something that could be agreed, i.e. there were issues around noise, the sound insulation between the properties was insufficient, and communication between the two households was problematic. They agreed.

The mediators suggested that they try to make an agreement to improve those things. Mrs A said she did not want any further racial abuse from her neighbour and Mr D agreed that he could manage that. Mr D also acknowledged that the situation with noise had actually improved but wanted things to continue to improve. Mrs A, having vented her feelings, appeared to be less angry and was able to communicate calmly with her neighbour. As the meeting progressed, both parties began to make suggestions and offers which would improve matters between them.

An agreement was reached concerning how they would communicate in future if noise reached unacceptable levels for Mr D, and Mrs A agreed to attempt to keep noise levels down after 9 p.m. Both parties agreed to show respect to one another at all times and in their dealings with their friends and relatives.

Aik Saath

Aik Saath (which means ‘Together as one’) is a project which arose as a result of Asian youth violence in 1996–7, when gangs from Sikh, Hindu and Muslim communities in Slough fought each other and there were serious incidents of racial violence. Channel 4 made a documentary highlighting these tensions and invited Dudley Weeks, a well-known American facilitator, to see if he could work with the groups of young people involved in the violence. The result was a documentary called The Peacemaker (Wall to Wall 1998). To carry forward the work, 10–15 young Asians from the three
different groups were recruited to be part of a peer education group. They took part in a three-day intensive course run by Dudley Weeks, covering conflict resolution techniques, facilitation and presentation skills. Since then, more young people have become involved, and workshops have been developed in anger and conflict management, stereotyping and other elements of conflict resolution in racial and ethnic conflicts. Aik Saath also hosts the Conflict Resolution Network UK, a website of resources and other similar projects (Conflict Resolution Network UK 2005).

Aik Saath is dedicated to the promotion of peace and racial harmony through the teaching of conflict resolution skills in the local community of Slough and its surrounding areas. Through their work Aik Saath hope to raise self-esteem and empower and train young people to become peer trainers, who then work with other young people in developing conflict resolution skills and in turn contribute to their personal development.

**Case study: Aik Saath – benefits for young people**

One of their current training team said:

> I joined the Aik Saath and it helped me because I used to get in lots of conflicts and joining the group helped me to calm down. The group is really good and we all get on together and work as a group. We go to schools and train pupils up and show them how to deal with conflict. (Omar, aged 19)

Aik Saath cooperates with other similar projects, such as Breaking Barriers in Burnley, to run conferences for youth.

(Aik Saath 2005; Aik Saath, Breaking Barriers in Burnley and Conflict Resolution Network UK 2005)

**The police and Youth Offending Teams**

The police and Youth Offending Teams also handle cases of racially motivated offending. Mediation and conferencing can be powerful ways of dealing with these, as they enable victims to explain why they feel so hurt (and this can be very empowering) and offenders to understand why such offences are so upsetting. They can then reassess their attitudes and behaviour.

**Case study: Racist slogans and asylum seekers**

Racist insignia and slogans were spray-painted on a house occupied by asylum seekers who had fled from insurgents in Africa. The two boys responsible were caught and a meeting held with the victims – man and wife. They recounted how their four children, already traumatised by previous events, were very upset by the incident and were still having nightmares some considerable time after. The offenders apologised verbally on
the spot and subsequently made written apologies. Having become aware of the effect of what they had done, one of them offered to meet with the children to allay their fears.

Case study: Nazi salute

Fran was approaching her local shops with her young children when Nigel (who had seen her German car number plate) did a Nazi salute in her direction. She was upset, dismayed and angry, and felt intimidated. The incident had a lasting effect, making her reluctant to use her local shops. At the ensuing restorative conference, Nigel’s father expressed his disgust and surprise at Nigel’s ‘inexplicable and inexcusable’ action, not least because his family have German cousins. He said he didn’t wish to excuse Nigel’s actions but attributed some of it to his way of trying to gain the approval of his peers. Nigel offered a full apology, which Fran accepted.

Mediating serious hate crime

Even if hate crimes are so serious that a prison sentence is inevitable, mediation can still be carried out, either in prison or on release. The following case was initiated by a Youth Offending Team in conjunction with a Young Offender Institution where restorative conferencing was in place for internal conflicts and misdemeanours.

Case study: Setting fire to a mosque

Eric was an A-level student and a member of the British National Party who deliberately set fire to a mosque and daubed a Sikh temple with racist graffiti. He was given a prison sentence. He was asked by the Youth Offending Team if he would agree to meet representatives of the Muslim community and he agreed. Two leaders of the Muslim community came into the prison to explain how upset everyone was, and how worried they were that children could have been injured. In the course of the discussion, the Muslims explained that they had been asked to come to the UK because of their expertise in engineering and had never been unemployed since moving here. They added that, even now that they were retired, they were still working for the community. Individually they said that they would be interested in Eric’s progress after his release and left open an offer of help. Eric was amazed that they had come to see him, and were not angry, just wanted to express their hurt, and even offered help. The two Muslim leaders said they would tell the members of their community that the incident was closed.

Gangs

The word ‘gangs’ conjures up images of antagonistic territorial groups engaged in conflict and violence, which can only be eradicated by strong-arm tactics by police protected by riot shields. But there are several groups working with gangs using conflict resolution and restorative methods with considerable success.
One of the best-known groups undertaking this work is Leap Confronting Conflict, based in London but working all over the UK. From 2000 to 2003 their Gangs and Territorialism team researched the experiences of young people involved in gang activity in the UK. They spoke to 330 young people from 30 youth organisations (75% male, 25% female) from different backgrounds, asking three questions:

1. What is a gang?
2. Why are young people in gangs?
3. What is the difference between a gang and a group of friends?

They found many different definitions, and that there were only a few organised gangs along US lines – armed and criminal. But all gangs got into violent confrontations with other gangs and groups. The greatest benefit of being in a gang was protection, the greatest disadvantage violence. Most of the young people belonged to gangs out of boredom. The Leap team also reviewed the literature and found that almost all the research on gangs was about US gangs; there had been no major research in the UK since the 1970s.

The Leap team then undertook three pilot projects, of which two are described below (the third one was in Manchester).

**Case study: Gangs in Castlemilk, Glasgow**

The first of the pilot projects took place in Castlemilk, a large housing scheme three miles south of Glasgow. Castlemilk had a long-standing history of gang fighting and territorial disputes, as well as an impressive history of youth interventions. A youth-led research project in 1998 concluded that territorial boundaries did exist, gang membership was linked to geography, gangs were associated with violence and many young people’s lives were affected by gangs’ existence, both negatively and positively.

The pilot Gangs and Territorialism project involved a multi-agency team of local workers in a 12-week summer project. The local workers used their specialist knowledge and previously established relationships to identify and recruit young people to the programme. The workers were given three days of conflict resolution training, which provided them with a grounding in understanding and responding to conflict and also served to develop a cohesive team. Nurturing and developing these relationships was crucial to the success of the project.

Three self-identified gangs of young people were engaged in a programme of intensive group-work activities. The locally agreed aim of the project was for young people to be able to make informed choices on gang membership, through exploring their identity, sense of belonging and the costs and gains of being in a gang. Overall 57 young people took part in the programme. Their ages ranged between 11 and 18, with the vast majority being 14–16-year-olds. All the young people were white Scottish: male 37, female 20.

Young people in Castlemilk were keen to explore gang membership and the conflicts that arose from being in a gang. They were not open to being told they should or should
not be in a gang or to being told to stop gang fighting. In many ways gang fighting was considered to be a fairly harmless activity; but the lack of access to certain areas and resources resulting from fear of attack was considered a greater problem. It was important to work with the infrastructure of the group itself, which included highlighting the roles that each young person played and exploring the internal conflicts within the group. The group work also looked at the history of past conflicts between different groups, and between the young people and the police, and acknowledged any historical injustices.

The project culminated in a residential programme bringing together self-selected young people from three of the gangs. A residential trip was chosen as a method of working as it allowed the group work to develop with a certain amount of intensity and continuity. It also acted as an incentive to the young people participating in the programme. Team spirit was achieved both inside and outside the training room, and incidents that happened outside the training room could be dealt with inside the training room.

The result of this work included separate reports from the young people, youth workers and schools workers, all of which highlighted less violence and fighting in schools at the beginning of the autumn term. The issues between gangs did not build up over the summer period and hence were not then brought into school, as would normally happen. Young people reported that being a part of the project left them with a sense of being valued and important. It gave them an opportunity to discuss their experiences as gang members and explore issues that affected their lives.

Case study: Gangs in Kings Cross, London

Building on the learning from the first pilot project, the second pilot project took place in Kings Cross. The project was a collaboration between Leap and the young people and workers from a variety of organisations in the London borough of Camden, led by Camden Youth and Connexions Service.

Leap was approached by a collection of Camden youth workers because of Leap’s specialist conflict resolution work in the areas of gangs and territorialism. The workers were based at two youth centres less than two miles apart, visited by two groups of predominantly Bangladeshi young men. There was a history of tension between these groups that had become more apparent in recent years as the number and ferocity of violent confrontations increased.

Following a series of planning meetings, it was agreed that the pilot project would use conflict resolution techniques and theatre to promote understanding between the two groups. Using their local knowledge, a multi-agency team of workers identified and recruited the young people to the programme. The project took place over a period of six months and culminated in a residential workshop. Each week the two groups individually received two and a half hours of focused group work. Twenty young people aged 16–18 took part in the programme.

The response of the young people to the work was extremely positive at the outset. They showed a willingness and interest in reflecting on their experiences of group conflict and trusted the workers with personal details about their lives. Initially both
groups were keen to meet, with a view to resolving the conflict once some groundwork had been done.

Two months into the work a violent confrontation took place involving some of the members of the groups. The conflict was part of an ongoing dispute between the leaders of the two groups. This resulted in a decision to continue working with the groups separately rather than doing the originally planned joint work. It was apparent that, for some young people, their identity and status was so deeply rooted in their position in the gang that resolving the conflict between the groups would leave them feeling undermined.

The work benefited the young people in many different ways. Many of those involved in the project moved into paid and voluntary work as a direct consequence of their involvement in the project. One of the groups presented at a conference and edited a video of their experiences, to be used as a peer education tool. Funding was achieved to continue working with the groups at a local level and there was still hope from workers and some young people that dialogue might take place between the rival gangs.

Comments from the young people included:

I learnt how to talk to people in a different way.

Try to speak in an argument rather than fighting.

(Bhari, Feinstein and Kuumba 2003; Feinstein 2003)

Case study: Three London schools

Another project started in three London schools in 2004, developing a multi-agency approach to dealing with conflict arising in school and with the community outside school. The aim was to mediate low-level conflicts within school, to prevent conflict ‘spilling out’ into the wider community and/or escalating into higher-level conflicts, such as gang conflicts. During the first year (of four years), the team ran conflict resolution workshops for 226 students and 44 staff, and trained 40 young people as mediators/peer conflict trainers.

When asked ‘What ideas/skills will you use most and in what situation?’, responses included:

• Not go straight into a fight – stop, think and talk about it. Would use it in the argument situation.
• Use my brain when I am in conflict.
• Try to resolve conflict before it gets out of hand.
• De-escalate a conflict.

(Rogers 2004, p.2)

When working with antagonistic gangs, often the goal will be to bring both groups together. This is very challenging for the gangs as it takes a delicate balance for justice to be restored while they save face. Leap has developed the framework below for this to happen peacefully.
Before bringing the groups together for a mediation session each group is prepared in a pre-meeting. In this meeting the concept of mediation is explored and the process explained. All the young people are present at the mediation but each group elects a representative to talk for the group. There are also two empty chairs for others who may want to speak. If a major problem arises, the process is changed to shuttle mediation. The following questions are asked of the groups:

- Why do you think you’re meeting?
- What do you think is going to happen?
- What do you think would help the process?
- What might get in the way?
- Are you worried about anything in particular?
- What if someone says something you don’t like?
- What will you do?
- What shall we do if it’s not working?
- What might block you?
- Who in your group is most likely to lose their temper?
- How can you support them?
- What would you like the outcome to be?
- Do you want the police informed of the meeting?
- Do you want a weapons check to take place?

This approach was used in the case study below, which was part of the second phase of the Gangs project 2004–2007.

Case study: Gangs in race conflict

*Leap was asked to help with two race-related gang conflicts in different cities.*

In Bristol youth workers encountered a conflict between Somali youths and white and African-Caribbean groups. Leap worked in partnership with the youth workers and provided training in conflict resolution for the adults, and also worked with the young people over the summer months. They started by working with each group separately, around issues of identity, myths and how they felt they were seen by others. They met the Somali group several times and built up a good rapport, but were only able to meet the other groups twice. As the non-Somali groups did not engage, it was not possible to move towards a joint meeting, so the Leap workers trained the local adults to carry on this work, which they did successfully.
In Leicester the conflict was between Somali and African-Caribbean young people, who fought each other in local youth clubs and school. Again, the Leap workers started with separate identity work, looking also at issues from their family histories. When the two groups were ready, they brought them together for a day workshop in the community centre used by both groups. Twenty young people attended, an equal number of boys and girls, aged 13–18.

One of the exercises was for each person to draw an ‘identity shield’, then divide it into four sections, labelling them ‘religion’, ‘nationality’, ‘culture’ and ‘race’. They were asked to draw something in each space and also think of a personal motto. Then they looked at others’ shields and compared notes.

Religion was interpreted fairly narrowly, in terms of worship. So the African-Caribbeans drew pictures of churches, while the Somalis drew mosques and Korans. For nationality both groups tended to draw symbols from their parents’ backgrounds, such as Somali or Jamaican flags – despite the fact that all the African-Caribbean young people had been born in the UK. Their images of culture corresponded more closely, with food (e.g. rice), music and clothes featuring highly. Both groups responded to ‘race’ by colouring the section brown and maybe adding a bit of black for hair colour. Personal mottos reflected teenage lifestyles, such as ‘Live for the moment’ and ‘Take each day as it comes’.

The young people from both groups could see from these shields that they shared many aspects of their history and backgrounds, and often had similar experiences in British society (e.g. experiencing racism). For some, their joint connection to Africa was also important. The meeting helped to answer many questions they had about each other, so that they could understand each other better. This led to an ability to coexist without feeling the need to fight.

The team from Leap Confronting Conflict has gathered their experiences into a manual for working with gangs and young people (Feinstein and Kuumba 2006).

**INDIRECT WORK**

Most of the cases in this chapter have been of face-to-face meetings, which brought considerable benefits, especially those where a meeting helped to achieve more understanding. But there are other cases, especially those involving power balances between intimate partners, which benefit from indirect ‘shuttle’ mediation, where parties do not meet, but nevertheless manage to reach an agreement concerning future relationships and behaviour (Wynne 2003).

**Summary**

This chapter has looked at four areas of activity where restorative approaches are often seen as ‘unsuitable’: domestic violence/abuse; sex offences/sexual abuse; hate crime; and gangs. Using examples and research from the UK and elsewhere, it is clear that restorative justice can have an important role. These are complex cases with many aspects to consider, so that special training and supervision are needed to undertake them.
References

Domestic violence/abuse


**Sex offences/sexual abuse**


**Hate crime**

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**Gangs**

Indirect work

Introduction
This chapter looks at some of the issues that crop up frequently in discussions about restorative justice. There are often no easy answers, but it is worth thinking about them, in order to become aware of the complexity involved.

When restorative justice does not work out
Most of this book has been concerned with showing how restorative justice can work in different contexts and circumstances. But of course there are many occasions when things do not work out. Some of these are due to poor practice – such as paying too little attention to victims, so that they do not see anything in it for them. Others are due to institutional failures, such as inflexible rules that inhibit communication. There are also cases where it is inadvisable to continue, because of participants' circumstances – restorative approaches are meant to fit round people. And finally, some people (victims or offenders) simply do not want any communication with each other, for a whole variety of reasons. This section provides some case studies which highlight a few of these factors.

Case study: Institutional restrictions and inadequate practice
Jack and Mark had a history going back at least two years. Mark had mild learning difficulties and was frequently bullied by Jack at school. The incident that led to Jack’s arrest happened when Jack had been in tears at school following his grandfather’s death. He noticed that Mark was watching him, and perceived a smile on his face. He went over and hit Mark.

Mark and his mother were visited by the victim worker and expressed interest in attending Jack’s Referral Order Panel. Jack’s YOT officer met Jack once (on his own) for an initial assessment, and found him able to engage, though not remorseful. She did not have time to meet his mother before the panel, due to legal time restrictions, although she had found her challenging when talking on the phone.

The panel started off badly. The panel leader was nervous. She missed out some crucial ground rules, and was then unable to curb the frequent interruptions.
The panel leader asked Jack to explain what had happened. He refused, and became emotional and angry when asked about his grandfather’s death. His mother constantly interrupted, minimising the offence and trying to shift the blame on to Mark. Then the panel leader asked Mark’s mother some irrelevant questions and didn’t manage to bring out the impact of the offence.

The panel was clearly going wrong. The YOT officer tried to rescue something for the victims by asking Jack directly to apologise to Mark. This was like a red rag to a bull. Jack was clearly an unhappy young man who had shown no remorse at all for the offence. He laid into the victim with verbal abuse and abusive hand gestures. The victim worker quickly led Mark and his mum out. Mark and his mother were upset and the experience was re-victimising for them. However, they said they were glad to have attended.

The panel volunteers, YOT officer and victim worker had a debrief meeting a couple of days after the panel. The discussion was wide ranging. The inherent difficulties with Referral Panels were highlighted, including the fact that the person facilitating the restorative meeting has no part in the preparation, and indeed doesn’t meet the victim or the offender in advance. The panel also went ahead despite the fact that no one had met Jack’s mother. The panel leader had been hoping that the victim worker or YOT officer would step in and rescue the meeting, but there had been no discussion of roles prior to the panel. In retrospect it was felt that it would have been a good idea to call a break when it first became clear that the panel wasn’t going well.

Following this panel, several steps were taken to improve panels:

- better information was made available for panel volunteers about the importance of ground rules
- work was done on questions that are helpful and appropriate to ask victims and offenders
- refresher training was provided for the volunteers.

Despite the mistakes, Mark’s mother’s feedback to the YOT expressed satisfaction with the service and the meeting. To the question ‘Did you get what you wanted out of the meeting?’ she circled both yes and no. She commented: ‘He was reluctant to talk and I know things had happened with his grandfather, but these young people really need to face up to what they did and verbalise it. It helps them and the victim.’

**Case study: Mental health issues**

*Mental health issues are not necessarily a reason for avoiding mediation – for instance, if victim or offender suffer from depression, extra support can help participants to gain great benefit from mediation (see case study in Chapter 8, pp.190–3, on the Manchester Adult Restorative Justice Project). However, some mental health issues prevent meaningful mediation if sufferers have a very different reality from everyone else, as in the case study below.*

Gill was a divorced mother of three who was in a volatile and often violent relationship with Pete. After an evening out drinking at their local pub, Pete became jealous of the attention Gill had received. They had a row and went home, where the row continued.
Gill’s oldest daughter (aged 20) was staying with friends, and the two younger children (boys aged 16 and 14) were at home and had gone to bed, but were woken by Gill’s screams. Her bedroom door was locked and they could hear a frenzied attack on their mother as they tried to gain entry. They rang the police, who came and broke into the bedroom. By this time Gill had been fatally stabbed several times with a kitchen knife by Pete, who had also used the knife on himself.

Pete was convicted of murder and given a life sentence. The children went to their father Tom, who had kept in touch with them in a supportive way after his divorce from Gill.

The case was referred to the mediation service by the Probation victim liaison officer (VLO), as Pete had expressed remorse and wanted to let his family know. The VLO felt that mediation would be the best way forward for this. The mediators visited Pete in prison 200 miles away and then the family (Tom and the three children). They were receptive to the idea of mediation, as they had questions for Pete, and needed to understand how it had all happened. The daughter was particularly upset, as she felt guilty for not being at home that night; and the boys felt guilty for not taking the row seriously (Pete and Gill were always rowing and shouting) and not being able to intervene sufficiently.

However, a further visit by mediators to Pete uncovered some mental health issues — mediators were not sure where his reality started or ended, and this affected his accounts of the situation. They explained this to the family, who found it helpful. Although the hoped-for meeting could not go ahead, they felt they understood a bit more about the attack and about Pete’s and Gill’s relationship. The mediators were also able to alert the prison to Pete’s mental health issues.

**Case study: Young person in rebellion**

*Sometimes young people in trouble with the law are in too much turmoil to be willing to consider restorative work.*

Letitia was 14 and in complete rebellion. She lived with her mother, who spent a lot of time in the pub and not very much with Letitia, who got into ‘bad company’. Letitia went with her boyfriend to someone’s house for a party, and while they were there, they stole a mobile phone belonging to another guest and some personal things belonging to the 11-year-old son of the house owner, Pat. They were duly arrested, and Letitia was given a six-month Referral Order. As part of this, she was expected to make amends for what she had done. The case was referred to the local mediation service to explore the possibility of a meeting between Letitia and Pat.

Pat had initially been very angry, so Letitia was frightened to meet her. Then she committed more offences and was in court several times. The mediators felt they should visit Pat, who was waiting for a response. She was pleased to see the mediators, and said that her anger had passed, but her son was still upset about the theft. She now just wanted to meet Letitia (whom she knew) to try and help her sort out her life. Pat had been in minor trouble herself as a teenager and hoped she could use her experience to help Letitia.
However, the house guest whose mobile phone had been stolen had meanwhile taken Letitia's bike as recompense. Letitia could only focus on the idea of getting her bike back and was not willing to think about Pat and her son. Then her Referral Order ran out, and there was no longer any contact with her YOT officer. All the mediators could do was let Pat know what the situation was — with the hope that, unless Letitia went to prison, her next court sentence would allow her the possibility to come back to the matter.

Not all offenders are instantly reformed by the process, although some are. Sometimes the hopes of victims are only partially fulfilled, as the next two cases show.

Case study: Unexpected responses

Robert and Christine were owners of an old motorcycle which Christine relied on to get to university across the city. They were parents of two young daughters, and Christine was now studying for a degree. The bike was left in the front garden every night.

Darren and some friends, all aged 15 and ‘mad about bikes’, stole the bike late one night and rode it all over the local housing estate and surrounding fields and green space. They took it back to the garage of the house of one of the group, and messed about with it loudly enough to arouse the suspicions of neighbours, who called the police at 3 a.m. They attended and arrested four boys red-handed. All the boys admitted offences of TWOC (taking without consent) and no insurance.

Darren was the only one to agree to meet the victims. Paul, the coordinator of the local victim–offender mediation service, spoke to the victims and the offender, and they all agreed to meet in the local community rooms. The meeting included Darren and his mother, Robert and Christine, Paul and a volunteer mediator.

The meeting proceeded well and everyone had their say. At one point towards the end, Robert asked Darren if he would do the same again and Darren said ‘possibly’ (later reported in the local paper as ‘probably’). Paul asked Robert how he felt about this honesty and Robert was clearly disappointed, as he wanted to hear Darren say ‘No’. Paul praised Darren for at least being honest and not ‘bullshitting’. Robert did not want Darren to get involved in repairs to the bike, and Darren was unable to offer any money towards the damage. The families were near neighbours, living on a poor council estate in the south of the city.

When asked three weeks later what he felt about the experience of meeting the victims, Darren said it wasn’t what he had expected. Asked why, he said he had expected to be hit!

Case study: Stolen bike – no remorse

A boy of 14 had his bike stolen by a boy from a Traveller family. The victim wanted to meet the offender, but the police told him that the thief was not repentant about what he had done, so they did not think a meeting would be a good idea. However, the victim still wanted to meet the offender, so a meeting was arranged. The offender agreed to come, although he said again that he was not sorry, and would still keep on stealing bikes. At the
meeting, the victim said that he felt so bad about it that he had decided not to get another bike ever again, as it would only get nicked. The offender was quite shocked by this and conceded: ‘Although I’ll carry on nicking bikes, I promise not to steal your bike in future.’ This was enough to enable the victim to buy another bike. Although this was not an ideal outcome of the situation, it was an honest one – and it helped the victim to take up normal life again.

And of course victims may not want to participate. A small survey of victims (Mercer 2006) who declined to participate in communicating or meeting with their offenders gave the following reasons:

- I felt too much time had passed since the offence.
- I just wanted to forget about the offence.
- I was too busy.
- I felt too angry.
- My mother was too angry.
- I do not think it worthwhile.
- Nothing can be done about it as I have been burgled three times.
- There are issues around confidentiality.
- It wasn’t a personal crime against myself.
- I have had excellent support within the organisation (this was after an offence which happened at the workplace).
- I have appreciated the contact but feel a counselling service meets my needs best.
- I don’t want further information or involvement… I need to focus on looking after my son. (The son was left brain-damaged as a result of the offence.)
- I have other priorities in my life as I have adopted two children.

However, all the victims had appreciated being contacted, having the scheme explained and being offered the opportunity to participate (Mercer 2006).

Voluntarism in restorative justice

Most practitioners think that restorative processes should be voluntary for both victims and offenders. A few argue that it should be voluntary for victims, but that offenders have an obligation to meet with victims if they want this, and to put things right.
Reparation

The distinction between meeting victims and undertaking reparation is important. Many victims ask that offenders undertake community reparation, and courts may also impose this. For some kinds of community reparation, where other people are not involved – for example, environmental projects, decorating and so on – it may not matter if an offender undertakes the task unwillingly. The offender will be the main loser if he or she undertakes the activity in a resistant way.

However, for those kinds of reparation where people are involved – for example, serving teas in an elderly persons’ home – it is important that the offender does so willingly, as that is part of the service. Youth Offending Teams select young people carefully for such tasks, bearing in mind their attitudes. For this reason it is also important to have a choice of work, so that offenders can choose something they feel reasonably happy doing and believe is important to society. Many offenders, both young people and adults, find to their surprise that they actually enjoy the work they are given to do, and some continue the work voluntarily after their court orders have been completed.

The hierarchy of reparation activities outlined in Chapter 3, p.62, is relevant here.

Meetings between victims and offenders

For victims, attendance at any kind of meeting with offenders must be voluntary. There should be no pressure on victims to take part, just for the sake of the offender. (However, some victims wish to be involved if it will help the offender, and this is a valid reason for engaging, as long as they don’t feel coerced.) The youth justice legislation provides the opportunity of victim–offender meetings for those victims who want this, and community reparation for those victims who do not want to have any communication with the offender.

Victims also get a better experience if offenders undertake to meet them voluntarily. They are often impressed when offenders agree to meet them and make genuine apologies. They are not very happy if offenders are dragooned to meet them and mumble a half-hearted or formulaic apology, as happened in some of the earlier restorative justice schemes. (However, restorative meetings may not always include apologies, and can still be successful.) So it is also important for victims that offenders have a choice whether to meet them or not.

However, it has to be recognised that offenders are under some pressure to take part. In the Northern Ireland Youth Conference Service, there is an expectation that young offenders will take part, although they can choose to go to court instead (as the example in Chapter 7, pp.171–2, shows). And in England and Wales, young offenders and their parents/carers are obliged to attend a Youth Offender Panel, where they may meet their victims.

There have also been instances where meetings went ahead with reluctant offenders, as the following quotation shows:

Some of the most powerful meetings I have been involved in with victims and offenders have taken place when the offenders were very, very reluctant, and their
families refused to take part – only when pressure was exerted did they attend. I have strong misgivings about this, but these meetings appear to have restored the victim, who at least had their voice given back about the offence, and for the most part the offender did accept responsibility. Interestingly, the parents of the offenders were the most affected – seeing their child confronted with the person whose life had been turned upside down by their child, stopped them in their tracks, preventing any more denial. (Cross 2006)

Different stages of the criminal justice system
The degree of pressure and motivation may also be different at different stages of the criminal justice system:

- **Diversion from the criminal justice system.** In some places (e.g. Oxfordshire) Youth Offending Teams and police have undertaken restorative conferences as a means of diverting young people from the criminal justice system. This has also been done for young people in residential units (see Chapter 7). Here the offender has an incentive to engage, so as not to acquire a criminal record; and the victim may be happier with this too, provided the offender makes an effort to put things right (see the community mediation example on pp.78–9 in Chapter 4). In these situations it is up to the victim to decide whether to engage in a restorative process rather than press charges.

- **Cautioning/Reprimand/Final Warning.** In those areas (in England and Wales) where police operate restorative justice services, the legal situation has been decided, and the offender is offered the opportunity to meet/put things right for the victim. The offender can refuse, but there is pressure to take part because the police are suggesting it – and the possibility that if offenders don’t agree, their non-cooperation will be noted and remembered another time. (This is actually stated for Final Warnings.) Victims in this situation have freedom of choice – and may have an incentive in that there is no other option open to them for redress, as their case is not going to court (so they cannot get the benefit of a Compensation Order or Reparation Order).

- **Between charge and sentence.** Here the offender has an incentive and the victim may see him or her as trying to ‘get off’. It is important before introducing the possibility of restorative justice at this stage that everyone is clear whether one of the aims is to see if it will make a difference to the sentence (which is being tried in several jurisdictions now); whether it won’t make any difference; or whether it will be taken into account in the same way as any other information about the offender, for example job, family, children and so on. In this scenario, there is more pressure on the victim to take part, to allow for the possibility of a case being diverted from court or attracting a lesser sentence. Some victims welcome this, as they do not necessarily want their offender to receive a heavy sentence. Others prefer their case to go to court in the usual way. It is important to avoid putting pressure on victims for the sake of the offender. In Scotland, in those places where
victim–offender mediation is available (for minor offences), victims can opt for mediation or let the Procurator Fiscal decide on other options, one of which could be to prosecute the case in court – many victims choose mediation because it is quicker and they have some say in the outcome.

- Post sentence. Here there is no incentive for either victim or offender as regards sentence, but both may have (different) reasons to meet. The offender may want to apologise and offer to put things right; the victim may want to ask questions, maybe obtain reparation or an apology, or put a face to the crime. Sometimes there is a conflict to sort out. Any meeting at this stage will be voluntary on both sides.

Occasionally offenders agree to meet victims and then withdraw – this obviously leaves victims feeling very disappointed and let down. To avoid this, some people suggest that offenders should be compelled to continue once they have agreed. However, it is probably better to help offenders with their fears, acknowledging the difficulties, than to forbid them to drop out. Offenders are under a ‘pressure of obligation’, but this is different from compulsion by outside authorities.

Victims may also withdraw at the last minute, unable to go through with it, and offenders are then disappointed. It is important for mediators and facilitators to warn both sides that this may happen, so that expectations are not raised too high.

Generally both victims and offenders are more likely to want to meet each other if they can see some purpose in it. This may be for themselves or they may have the other’s welfare in mind. They both need to talk through their decision with someone who is impartial and can help them work out what the best way forward is for them in their particular situation.

Shame

One concept which has been used in several restorative conferencing models is the idea of ‘reintegrative shaming’. This is based on research by John Braithwaite (1989) in his book *Crime, Shame and Reintegration*. Looking at the Japanese criminal justice system, Braithwaite argued that offenders experiencing a sense of shame that stigmatised them and left them as social outcasts were more likely to re-offend. On the other hand, offenders experiencing shame in relation to their intimate family and friends, who were forgiven and reintegrated into their family and society, were less likely to re-offend. So restorative conferencing and mediation try to separate the deed from the doer, and condemn the deed, while encouraging the offender and treating him or her like a human being of intrinsic worth.

Several of the early conferencing manuals use shame as an important concept, pointing to Braithwaite’s work and also Nathanson’s (1992). They show how shame can be a powerful factor in the conference process, leading through shame to a ‘ceremony of reintegration’, when all participants share food and socialise (Real Justice 1995, 1999).
However, the concept of reintegrative shaming is often poorly understood. Remarks such as ‘I like this restorative justice business – name them and shame them, that’s what it’s all about’ show that some people’s understanding is the opposite of that intended. So over recent years fewer documents have included it – the Northern Ireland Youth Conference Service Practice Manual (University of Ulster 2003) does not mention it.

Forgiveness

One of the questions I used to be asked by journalists when I was director of Mediation UK was ‘The idea of victim–offender mediation is to get the victim to forgive the offender, isn’t it?’ I used to say ‘Not quite’, and then explained how victim–offender mediation worked.

Any restorative process can provide an opportunity for victims to forgive offenders if they so wish, or if they reach a point where this seems to be the next step. But forgiveness is not something that can be forced or even ‘programmed in’. There is now a vast literature on forgiveness. The aim of this section is not to cover this, but to look at the place of forgiveness in restorative processes.

There seem to be two main philosophies of forgiveness:

1. The first philosophy emphasises the possibility of a victim forgiving an offender or someone who has wronged him or her, whether or not the offender asks for forgiveness, whether or not the offender is even known. It is an act that can be carried out by a victim on their own. The aim is for victims to free themselves from ‘internal bondage’ to the perpetrator created by feelings of hate and vengeance. There are many guides to stages of forgiveness to help people with this process. At a conference in Findhorn in 1999, AbaGayle recounted how she had spent eight years of rage and hatred against her daughter’s murderer, before joining a church and studying A Course in Miracles (Schucman and Thetford 1975), which led to her being able to forgive the murderer and even visit him on death row. She also joined the campaign for the abolition of the death penalty.

2. The second philosophy emphasises the necessity of a relationship between victim and offender as a pre-requisite to forgiveness. At the conference in Findhorn, Father Michael Lapsley spoke of the letter-bomb that blew off his hands when he opened the letter; this bomb was an attack on him for his anti-Apartheid work. Father Michael said he had not forgiven the perpetrator because no one had confessed to being his attacker and no one had asked for forgiveness. If someone did so in the future, he said it was likely that he would forgive them, but he would also expect them to do

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what they could to put things right – in his case, help to pay for the costs of
the carers he needed for the rest of his life. He thought a religious
obligation to forgive could be an extra burden for victims. To be able to
forgive, people need recognition for their sufferings, and he developed the
‘Healing of Memories’ workshops to help people with this (see Chapters 15

These and other perspectives are explored in detail in *The Sunflower* by Simon
Wiesenthal (1998). The book starts with the story of a Nazi concentration camp guard
on his deathbed asking a Jewish inmate to forgive him. The prisoner says he cannot
forgive anyone on behalf of other people and walks away, then spends years wondering
if he was right. The book poses the question to a wide range of people and is a compilation
of their responses from a variety of perspectives.

The Forgiveness Project

The Forgiveness Project was launched in London in January 2004, with an exhibition
called ‘The F Word: Images of Forgiveness’. The exhibition was the brainchild of jour-
nalist Marina Cantacuzino, and was supported by the Forster Company. Working with
photographer Brian Moody, Marina secured stories and photographs of 24 people who
had, in different ways, experienced tragedy and atrocity and who had chosen to move on
in their lives through often painful and challenging journeys towards forgiveness. The
stories come from diverse countries, including Israel, Northern Ireland, Palestine,
Romania, Rwanda, South Africa, the UK and the US. The exhibition drew a tremendous
response – both from the media and the general public – attracting over 6000 people
during its two-week opening run at the Oxo Tower Gallery on the South Bank. The
exhibition (and the accompanying book, which includes all the panels) includes a wide
variety of views on forgiveness (Cantacuzino and Moody 2004).

Case study: The Forgiveness Project – views
on forgiveness

Forgiveness does not mean condoning what has been done. It means taking what has
happened seriously and not minimising it; drawing out the sting in the memory that
threatens to poison our entire existence.

(archbishop Desmond Tutu)

Forgiveness is a journey. Today you can forgive and tomorrow you can feel pain all
over again.

(anne Gallagher, Northern Ireland)

I don’t think I have a right to ask for forgiveness. It only adds insult to injury, and
places yet another burden upon relatives and family members.

(alistair little, Northern Ireland)
Working towards forgiveness seems to be the most imaginative way of becoming free and offering freedom. It is only something you can line yourself up for; you can’t make it happen.

(Marian Partington, whose sister Lucy Partington became labelled as one of the ‘West victims’)

The Forgiveness Project takes its exhibition to a variety of organisations and venues, where it can form the basis of discussions and workshops on forgiveness.

The exhibition has also been taken into prisons – so far HMPs Armley, Brixton, Holloway, New Hall and Wayland, and HMYOI Warren Hill. The exhibition is mounted inside the prison for prisoners to look at in their own time. After a while a discussion day is arranged, for any prisoners who would like to take part, and about 50 usually join in.

Two or three of those whose stories appear in the exhibition come to talk to the prisoners. This encourages questions and answers, then discussion and exploration of the stories. The exhibition and the discussions prompt painful memories, and many prisoners are deeply affected. Some begin to think and talk about their own journeys and want to carry on the discussions. To explore these aspects they can join three-day Healing of Memories workshops organised by the Forgiveness Project for small groups of 12 prisoners (see Chapter 15, pp.372–3 for a description of a workshop).

Case study: The Forgiveness Project in prison

Below are two quotes from the pilot programme run in HMP Brixton in 2004–2005:

I came into prison full of anger and regret – feeling sorry for myself for getting caught and all set to get revenge. But after this programme I understood why I did what I did. Since then I’ve made a complete turn around but the battle I’m doing now within myself is even more difficult.

(William, prisoner, HMP Brixton)

Our aim here is to play our part in reducing re-offending and break the cycles of conflict, crime and violence that destroy the communities we live and work in. This initiative with The Forgiveness Project to promote conflict resolution and restorative justice is therefore both timely and hugely important. The pilot project has gone extraordinarily well and opened new doors for both staff and prisoners.

(John Podmore, Governor, HMP Brixton)

Fred and Rosemary West sexually abused and murdered at least 12 young women, most of whom were buried in the basement or garden of the couple’s home at 25 Cromwell Street in Gloucester. Some were their own children, some had been abducted. The murders came to light in 1994. Fred West committed suicide in prison in January 1995 while awaiting trial for murder. In November 1995, Rosemary West was found guilty of ten murders and sentenced to life imprisonment. In October 1996, the Wests’ home was demolished to remove the horrific memories associated with the site.
The Forgiveness Project plans to continue its programme in Brixton Prison and extend it to other prisons as funding allows.

Forgiveness in cases of serious crime: Victims
There have been remarkable stories of people who have found it possible to forgive serious crimes immediately, for example Gee Walker, whose son Anthony was killed with an ice axe in a racist murder, and Abigail Witchalls, who was stabbed in the neck and paralysed while walking with her young son in Surrey. They were both religious people and were probably the exception rather than the norm. For others, forgiveness is not a simple matter. For many people, even after mediation, forgiveness is simply ‘not on the table’. Suzanne in Chapter 8 said of the man who killed her mother:

I’ve put that chapter to rest… I’ve done everything I can do, no need to see him again… I don’t fear him, I don’t see him as a demon any more… but forgiveness was not on the table…

Even for those who would like to forgive the people who have devastated their lives, it is a struggle that can last many years. Below are reflections from two people from their journeys towards forgiveness.

Case studies: Murder victims – journeys towards forgiveness
Following on from her piece in the Forgiveness Project book (see above), Marian Partington later reflected on her journey:

I feel the most helpful thing I can do is to be aware of my own negative emotions and cultivate my own life. It’s been 12 years now. I feel much more even. I have had to accept that many of my questions will never be answered [because of Rosemary West’s denial]. I have to accept that I can’t turn the clock back. I just hope Rosemary West can learn from what has happened and that her life won’t be wasted. (Partington 2006)

One of the ways in which Marian tried to begin her journey towards forgiveness was to write a more holistic account of her sister, and ‘reclaim her from the Wests and the media’. She called this account *Salvaging the Sacred* (Partington 2004).

Lesley Moreland, whose story of meeting the man who murdered her daughter was told in Chapter 9, wrote about forgiveness at several different stages of her journey. At the time of the meeting, she was clear that, although she found the meeting beneficial, and he had said that he was sorry, she hadn’t been able to forgive him. She felt that it wasn’t her place, that only her daughter could do so – so that any forgiveness from Lesley would be a betrayal of her daughter. She was upset by her inability to forgive, as there seemed to be a ‘religious imperative’ to do so. But she didn’t bear Andrew Steel any ill will, and the meeting had enabled her to see him as a person rather than just ‘a murderer’ (Moreland 2001).
Some years later she saw Archbishop Desmond Tutu interviewed in a television programme. This gave her a new way of looking at forgiveness, and she wrote to Andrew Steel, as she knew he would soon be released:

Dear Andrew Steel

You will probably be surprised to hear from me. I have been thinking of you particularly this year when, if all had gone well, you would have completed your sentence. The Victim Contact Officer has told us that you will be applying again to the Parole Board in December.

It has taken me a long time to think about whether or not to contact you again. I recently saw a programme when Archbishop Desmond Tutu was interviewed. He said, ‘Forgiveness is when you have been hurt, and you have the right to pay back, but you don’t use that right and you gain the possibility of that person making a new beginning.’ I can agree with that statement and so am writing to you to offer you my forgiveness for taking Ruth’s life.

I hope your new application goes well for you and that you are able to work towards your release and have a fulfilling life when you are released.

Yours sincerely

Lesley Moreland

(Moreland 2006)

Forgiveness in cases of serious crime: Offenders

It can make a big difference to offenders to know that they have been forgiven, or at least that their victims do not bear them ill will.

Case study: Murder – lifer forgiven

Kevin, a lifer who murdered a woman in a house where he was working as a plasterer, spent 14 years in prison. At one point his probation officer spoke to the victim’s husband, who said he had no objection to Kevin being released, if he sorted himself out. Kevin was overwhelmed by this – he had expected to be hunted down and shot as soon as he was released from prison. He said:

It felt like seeing God. How can one man have so much compassion when I’ve ruined his life? It changed my life. It spurred me on to do the work of sorting myself out (which was very hard), in memory of my victim. I had previously thought I was such scum that I should just rot in hell and not bother to try. In psychodrama sessions I worked on apologising to him, but it seemed wrong because it was so insignificant. After a lot of work I saw that in the end the only way forward was to forgive myself and try to live a better life.
Forgiveness and restorative justice

Andrew Rigby of the Centre for the Study of Forgiveness and Reconciliation (Coventry University) writes that the conditions that facilitate interpersonal forgiveness are:

- acknowledgement/confession/apology
- expressions of repentance and the promise not to repeat the wrong
- offers to make amends/undertake reparation.

(Rigby 2006)

These conditions are part of restorative processes, so that they can pave the way and make forgiveness more likely, although they can never prescribe it.

Declan Roche (2003, p.120) writes:

It is a mistake for restorative justice practitioners to become preoccupied with trying to achieve reparation or forgiveness or reconciliation, as these things should not – and cannot – be forced by convenors… Convenors should focus on the more modest objective of ensuring that participants are able to participate effectively… When a convenor ensures a victim is able to speak and be heard, that victim will be more inclined to forgive than one pressured to do so.

There is also a cultural component to forgiveness. When I have led victim–offender mediation role plays in some countries, feedback from the observers has included comments such as, ‘When the victims heard how poor the offender was, they decided to forgive him and not ask anything from him except an apology.’ In another country a similar scenario resulted in a complicated arrangement to enable the offender to work for the victims for as long as it took to pay back every penny owed. Some cultures are more forgiving than others.

Summary

This chapter has looked at situations when restorative justice does not work out, for many reasons, and three issues (voluntarism, shame and forgiveness) which are frequently debated in discussions of restorative justice. There are no easy answers. But it is important to discuss them and to be aware of the nuances surrounding each topic, with the aim of arriving at the most restorative way forward in any particular situation.

References

When restorative justice does not work out

Voluntarism in restorative justice
Shame

Forgiveness
CHAPTER 14

Research: A Selection

Research in restorative justice

It is clear from the rest of this book that many people are convinced from their own experiences (as victims, offenders or workers in the field) that restorative justice works well. But this needs to be backed up by robust research, not just to give a ‘yes or no’ answer, but to see how we can do better – what are the factors that make it work, for all parties involved?

Research into any subject tends to raise as many questions as it provides answers. So it is with restorative justice – there is a wealth of research on many aspects, much of it quite complex. This is not surprising, given the complexity of most criminal justice systems. And with restorative justice, research is often looking at outcomes for victims and the community as well as offenders. Some of the research into restorative justice has not always been of the highest quality in research terms, often due to funding problems; for example, only acquiring the research funds after a project has started. Furthermore, it is often not possible to tell whether the practices being researched were truly restorative.

This chapter will try to gather together some of the research in restorative justice and present it in a fairly simple way; this may mean ignoring some of the finer points, but references are given so that readers can follow up any research of particular interest. It is not a complete ‘overview’ but more of a selection to illustrate the kinds of research that have been undertaken in this area.

The question often posed, ‘Does restorative justice work?’, can mean several different things which need to be explored in turn. Here are some of the possibilities:

- Is it possible to set up restorative justice schemes? What works in implementing restorative justice?
- What are the organisational factors needed to make them work?
- Is it possible to engage offenders? Under what conditions?
- Is it possible to engage victims? Under what conditions?
- Is it possible to gain support from courts and community?
- Do victims and offenders think restorative processes are helpful and fair? What do they get out of them? Would participants recommend them to their friends?
Does restorative justice work only for juveniles, or for adults as well?
Does restorative justice divert cases from courts or prison?
Does restorative justice prevent or reduce re-offending?
Are the agreements completed?
Are schemes cost-effective? Do they save money?

It is not possible in one chapter to do justice to all these questions, so I will look mainly at five of them, taking in some aspects of others along the way:

Does restorative justice prevent or reduce offending?
Do victims and offenders find the process helpful and fair?
Are agreements about compensation and reparation fulfilled?
Are schemes cost-effective?
What works in implementing restorative justice?

As there are far more restorative justice schemes for young offenders, there is also more research on this age group; however, the small number of researches involving adult offenders show similar trends.

Most pieces of research are single studies, covering varying numbers of cases, but some are multiple studies and some are meta-analyses; that is, surveys of a large number of studies. These meta-analyses are listed first, in date order; the other studies quoted in this chapter are then listed according to topic, country and date order. The countries in each section are listed in the order: UK, other European countries, North America, Australasia. There is a summary at the end of each section, as well as at the end of the chapter.

Research on restorative justice in schools, in children’s residential units, in anti-social behaviour, in situations of domestic violence/abuse and with sex offenders and hate crime are to be found in the chapters on those topics.

Most of the research covered in this chapter is from the English-speaking world, partly because that is where some of the largest studies have taken place, but also because of greater ease of access.

Meta-analyses

These are analyses of many studies and are quoted first because they give the greatest overall reliability.

Latimer, Dowden and Muise (2001) undertook a Canadian government meta-analysis of 35 studies, which looked at recidivism rates, victim and offender satisfaction, and restitution completion. Each of the studies used control groups to measure the outcomes. Findings were:

- Seventy-two per cent of studies reported a decrease in recidivism rates – the mean decrease of all studies reviewed was 7 per cent. However, while some programmes reduced re-offending by as much as 38 per cent, others led to increases in re-offending by up to 23 per cent.
• Victims who participated in restorative processes were significantly more satisfied than those who participated in the traditional justice system.

• Offenders were also more satisfied but less significantly. Offenders who participated in restorative justice programmes tended to have substantially higher compliance rates than offenders exposed to other arrangements.

A series of wide-ranging studies conducted by the University of Minnesota examined the outcome of victim–offender mediation programmes in four states in the US, four provinces in Canada, and two cities in England (Umbreit 2001). High proportions of both victims and offenders reported being satisfied with the mediation process. Significant reductions in the fear of re-victimisation also emerged, and in the US study where a matched control group was available, 160 youths were monitored to see if they committed a new offence within a year after mediation. Eighteen per cent did so, compared to 27 per cent in the control group – a reduction of a third. This study was also incorporated into another multi-site study of four juvenile victim–offender mediation schemes in the US, which concluded that, in the combined sample of 1298 (619 who participated in victim–offender mediation and 679 who did not), those participating in victim–offender mediation re-offended at a rate 32 per cent lower than the non-participants (Nugent et al. 2001).

A further meta-analysis by Nugent, Williams and Umbreit (2003) expanded the database from the meta-analysis above to include 14 studies covering 9037 juveniles. Those who had taken part in victim–offender mediation had a 26 per cent lower recidivism rate than those who had not. When they did re-offend, they committed less serious offences than the control group.

In a chapter reviewing 30 years of evaluation research of restorative justice programmes from 1971 to 2001, Paul McCold comes to the following conclusions, based on 98 restorative programmes and 21 court samples:

• There is little public opposition to restorative justice, and considerable support from victims and the public for offender reparation and for victims to have an opportunity to meet their offenders.

• Most victims and offenders choose to participate, given the opportunity, and victims rate direct mediation more highly than indirect mediation or court.

• Rates of agreement and compliance are very high.

• Restorative justice can achieve a positive outcome for all kinds of case.

• Fairness and satisfaction ratings for victims and offenders are very high, often over 95 per cent.

• Re-offending rates for offenders are no higher for restorative justice than for court adjudication.

(McCold 2003)
A review in 2006 by Umbreit, Vos and Coates looked at 85 studies from Australia, New Zealand, North America and the UK. Their findings included:

- Participation rates for victims in victim–offender mediation usually range from 40 to 60 per cent but can be as high as 90 per cent.
- Eighty to ninety per cent of participants in victim–offender mediation or conferencing are satisfied with the process and the resulting agreement.
- Nine out of ten participants would recommend victim–offender mediation or conferencing to others.
- Participants in victim–offender mediation felt treated more fairly than those going through conventional court processes. This also translated into higher satisfaction with the criminal justice system.
- Of cases that reached a meeting, 90 per cent or more generated agreements. Of these, 80 to 90 per cent were completed.
- Recidivism studies were mixed. Most showed lower recidivism after mediation or conferencing, but a few studies showed little or no change.

(Umbreit, Vos and Coates 2006)

A major review of research in the UK and abroad, Restorative Justice: The Evidence, published in the UK in early 2007, reviewed 36 comparisons with conventional criminal justice (CJ), and showed that restorative justice:

- substantially reduced repeat offending for some offenders, but not all
- doubled (or more) the offences brought to justice as diversion from CJ
- reduced crime victims’ post-traumatic stress symptoms and related costs
- provided both victims and offenders with more satisfaction with justice than CJ
- reduced crime victims’ desire for violent revenge against their offenders
- reduced the costs of criminal justice, when used as diversion from CJ
- reduced recidivism more than prison (adults) or as well as prison (youths).

(Sherman and Strang 2007, p.4)

Summary

It can be seen that these meta-analyses show broadly favourable results in most areas: participation, satisfaction, fulfilment of agreements and reduction of re-offending. The satisfaction rates are particularly and consistently high.

The rest of the sections look at individual pieces of research. Readers interested in particular aspects will need to look at the meta-analyses section as well as the sections below.
Does restorative justice prevent or reduce offending?

This is the question that interests governments and policy-makers the most, as they battle to reduce crime against seemingly insuperable odds. This remains an ongoing concern, despite the fact that current statistics tend to show that crime has fallen during recent years; although fear of crime has not. Governments and policy-makers tend to adopt reduction of offending as the sole criterion for implementing restorative justice.

There is often an unspoken expectation that offenders who have taken part in restorative processes, and have met their victims, will never re-offend. Sometimes this is true. But often offenders go back to the same set of circumstances that were factors in their offending: poverty, unemployment, drink or drug problems. So it is more realistic to look for a slowing down of offending, or a lessening in seriousness of offences.

This kind of research is difficult to do, with different counting mechanisms for re-offending – is it the date of the offence, the date of arrest or the date of conviction? How does one find an accurate control group? How does one decide whether a fresh offence is more or less serious than the previous one?

Below are summaries of some of the research in victim-offender mediation and restorative conferencing in different countries.

UK

The first piece of detailed research in the UK concerned the 1985–7 Home Office funded initiative with four centres. Their results showed that 55 per cent of offenders experiencing direct mediation showed a reduction in criminal behaviour, compared with 45 per cent of the control group. The Wolverhampton group showed that 74 per cent of the indirect mediation group and 55 per cent of the direct mediation group had reduced their criminal behaviour, compared with 36 per cent of the control group. However, the samples were too small to be statistically significant (Marshall and Merry 1990).

Leeds Victim–Offender Unit’s research on 73 adult offenders undertaking mediation between January 1993 and June 1994 showed a reconviction rate within two years of 46.6 per cent instead of the predicted figure of 54.2 per cent, from offender profiles (Wynne and Brown 1998). A later study showed that, of 153 adult offenders who undertook mediation and 79 who did not, 44 per cent of the mediation group were reconvicted within two years, compared with 56 per cent of those not undertaking mediation (Miers et al. 2001).

Thames Valley Police’s Retail Theft Initiative in Milton Keynes, in which first-time shoplifters meet with store managers from the city’s shopping centre, has been evaluated twice. A Home Office study (McCulloch 1996) found significant reductions in re-offending amongst those involved; these findings were confirmed by an independent follow-up study three years later (Willcock 1999). The follow-up study revisited the offenders involved in the earlier study, and found that only 26 per cent had re-offended since the first study, compared to 40 per cent in a control group (N = 422).
Oxford University’s study of Thames Valley’s restorative cautioning initiative, whereby police cautions are delivered during a restorative conference, compared self-reported offending (a more accurate measure of offending than conviction rates) in the 12 months prior to the caution, with that in the 12 months after (Hoyle, Young and Hill 2002). The proportion of respondents reporting serious offences (e.g. stealing a car, burglary, assault needing medical treatment, drink driving) declined from 50 per cent to 22 per cent. In a measure of persistence, the proportion reporting three or more offences in a 12 month period declined from 74 per cent to just 5 per cent (N = 67).

An evaluation of the Essex Family Group Conferencing Project (Judge et al. 2002) collected qualitative and quantitative data from 30 Family Group Conferences, convened to address offences committed by young people considered to be in the top 20 per cent receiving services from Youth Offending Teams, regarding the seriousness of their offending. Re-offending rates were 31.6 per cent for the Year 1 sample (2000), and 7.1 per cent for the Year 2 sample (2001), as measured at least three and up to 17 months after the conference. The study contrasts this with a 69 per cent re-offending rate amongst under-21s serving community penalties in 1997.

In the national evaluation of the Youth Justice Board’s 46 projects funded for 18 months in 1999–2000 to initiate restorative justice, 728 offenders from 34 projects were tracked for reconviction rates. The reconviction rate was 28.6 per cent, compared with 26.4 per cent for a Home Office sample in 2000. Although this difference was not statistically significant, the research authors comment that it might be due to a greater referral rate of offenders deemed to have a higher risk of re-offending. There is also a question mark about how far these initial projects managed to be really restorative (Wilcox and Hoyle 2004).

An important piece of current research, described qualitatively in Chapter 8, aims to replicate Strang’s Australian research (see below), and to show whether restorative justice leads to a reduction of offending for adult offenders in the UK. The Justice Research Consortium, with researchers from the University of Pennsylvania and the Australian National University, tested restorative justice in a variety of settings for adults and young people pleading guilty to robbery, assault, burglary and shoplifting. Cases were randomly assigned either to take part in a restorative conference or to a control group (overcoming the research criticism of other studies that victims were satisfied because they were self-selected). Between them, the Justice Research Consortium, REMEDI and CONNECT (voluntary-sector mediation organisations based in Sheffield and London respectively) completed 840 cases through mediation or restorative conferencing, between 2001 and 2004. Many of them involved serious cases, in which the offender was in prison.

The overall research was led by Joanna Shapland of the University of Sheffield. The first and second full reports are the only ones to be published so far, covering the setting up and implementation of the schemes (Shapland et al. 2004a, 2004b; Shapland et al. 2006a, 2006b). The research found that the three schemes were generally well implemented: 342 Justice Research Consortium cases reached the conference stage; 50 CONNECT cases and 132 REMEDI cases reached mediation. Although most cases
involved adult offenders, victims were prepared to participate. Victim participation was very high where cases involved young offenders (75–89%, depending on the scheme). Most of the cases led to an outcome agreement (Shapland et al. 2006a, 2006b). The final report, with an overview of all findings, including reconviction and cost data, is anticipated in 2007.

Sacro (Safeguarding Communities – Reducing Offending) undertook an evaluation of their Youth Justice Services 2004–2005. The services comprise restorative interventions (mediation, conferences, shuttle dialogue, victim awareness) and also other services supporting these, such as drug awareness and personal change programmes. The evaluation considered 1360 closed cases of young people aged 8–17. Of this number, 181 young people from Aberdeen agreed to be tracked after completion of work with Sacro. After the first 12 months, 70 per cent of the young people had not re-offended, including 20 ‘persistent offenders’ with an average of 19 offences each. Of the first-time offenders, 86 per cent did not re-offend (Nicol, Kirkwood and Macfarlane 2006).

In the Justice Research Consortium Northumbria Final Warnings group, teenage girls under 18 committing crimes of violence were assigned randomly to a restorative conference or to a standard ‘talking to’ by a police officer. Those attending a conference (N = 44) showed 118 fewer arrests per 100 offenders in the year after, compared with the year before. This was more than twice the reduction for those receiving the standard treatment (47 fewer arrests). The result for teenage boys (N = 64) was no significant difference, but no increase in recidivism. For property offences, boys attending a conference (N = 100) showed 88 fewer arrests per 100 offenders, compared with 32 for the control group, again more than twice the reduction; the girls’ sample (N = 28) was too small to draw any conclusions (Sherman and Strang 2007, pp.68–9).

Austria

In Austria, research using data from 1993 and 1994, and conducted over a three-year observation period, suggests that re-offending rates are positively affected by completed mediation. In the case of first-time offenders, re-offending among the sample was less than half that of the control group; where they had previous convictions, the proportion was about two thirds (Miers 2001).

Belgium

In a conferencing project for juvenile offenders who had committed either a serious offence or a series of crimes, recidivism was assessed from court files six to 18 months after referral or the actual conference. Seventy-eight per cent of juveniles who took part in a conference had no new crimes recorded in the judicial files, compared to 22 per cent who were not involved in conferences. Those (of the conference group) who did re-offend only did so after several months and, when they did, the crimes were of a less serious nature than the crime(s) for which they were referred to a conference (Vanfraechem 2005).
A study in Germany showed that, for juveniles in Munich and Landshut, victim–offender mediation had a favourable influence on re-offending. With 85 successful mediation cases, the average number of further offences was 1.36 as opposed to 2.06 with the control sample (Dölling and Hartmann 2003).

In another piece of research, a national survey of referrals in 1997, there was a high rate of successful reconciliation: 85 per cent for juveniles and young adults, 78 per cent for adults. The majority resulted in apology (73%), often with some form of material reparation. Although this often comprised small sums, victims valued the payment (Miers 2001).

One of the earliest studies examined 320 juveniles, of whom 160 took part in victim–offender mediation and 160 in a matched comparison group did not. The four victim–offender mediation programmes were in four different states. After a one year follow-up period, Umbreit found that 18.1 per cent of offenders who took part in mediation committed a new offence, compared with 26.9 per cent of those who did not. Of the re-offenders, 41 per cent of those in the mediation group committed less serious offences than before, but this was only true of 12 per cent of the re-offenders in the comparison group (Umbreit and Coates 1992).

In research on Family Group Conferences involving 292 young offenders, 189 were randomly assigned to conferences. After random assignment, voluntary participation was sought. Of the 189 randomly assigned, 109 declined to participate and instead went to court. Three groups were then examined: allocated to court; allocated to conference and participated; allocated to conference but chose court. Results showed that re-offending was significantly less for violent offenders who had attended conferences. Among property offenders, there were no significant differences in rates of re-arrest (McCold and Wachtel 1998).

An evaluation study of VORP (victim–offender reconciliation programmes) in six California counties asked the question, ‘Was the recidivism rate of the VORP participants at least 10 per cent less than that of the control group?’ Results showed that for five of the six programmes the answer was ‘yes’ with a range of 21 per cent lower to 105 per cent lower (Evje and Cushman 2000).

The Indianapolis Juvenile Restorative Justice Experiment explored the benefits of holding restorative justice conferences as a response to first-time juvenile offending. Young offenders aged 14 and below were randomly assigned to take part in either a restorative conference or a more conventional court-ordered diversion (N = 312). After 12 months, 41 per cent of those dealt with conventionally had been rearrested, compared to 31 per cent of those involved in restorative conferences. Crime victims also reported much higher levels of satisfaction at the way their cases were handled (McGarrell et al. 2000).
Canada

The Winnipeg-based Restorative Resolutions project focused on medium- to high-risk offenders recommended for a custodial sentence. Alternative, individually tailored, community-based plans were drawn up, with input from victims, and submitted to the court for endorsement. If the plan was approved, project staff implemented it and supervised the offender. An evaluation in 1998 tracked recidivism rates for 94 offenders over a one-year period and compared them to a matched control group of offenders whose cases were dealt with conventionally. Only 5.3 per cent of Restorative Resolutions clients were subsequently convicted of a new offence, compared to 16.1 per cent in the control group (Bonta, Wallace-Capretta and Rooney 1998).

Another Canadian study (Matthews and Larkin 1999) from the Healing/Sentencing Circles Program in Whitehorse, Yukon Territory, on juveniles and adults, showed an 80 per cent reduction in recidivism over two years. The decline in offences is attributable to the programme, as no other changes took place over that period. The evaluation was an internal self-evaluation using an outside paid consultant (N = 65).

Australia

In Canberra, the RISE (Reintegrative Shaming Experiments) project, mentioned in Chapter 11 (p.268), randomly assigned offenders to be dealt with either by way of restorative justice or via the existing court system, and compared the results. The study included 110 youth violence offenders (under 30), 900 drink-drivers (all ages), 135 shoplifters (under 18) and 238 property offenders (under 18). For the youth violent offences, re-offending amongst those offered restorative justice dropped by 38 per cent compared to the control group dealt with conventionally (Sherman, Strang and Woods 2000; Strang 2002). A slight drop in offending was found among the shoplifters, but no difference for the property offenders, and a 6 per cent rise for the drink-drivers (this may have been related to the fact that there were no individual victims, and that courts can suspend drivers’ licences, whereas conferences cannot).

New Zealand

In a retrospective analysis of first offenders (i.e. those with no prior proven court appearance) who went to either conference or court in 1997–8, Luke and Lind compared post-intervention offending. The time period of follow-up was 27–39 months. The results indicated that conferencing produced a reduction of up to 15 to 20 per cent in re-offending, across different offence types and regardless of gender, criminal history, age and aboriginality of offenders (N = 590) (Luke and Lind 2002).

In New Zealand an evaluation of two pre-trial restorative justice diversion projects compared 12-month reconviction rates for 200 adult offenders, with matched samples of cases dealt with through the courts. Reconviction was reduced by around a third in one project, and by nearly half in the other. Seriousness of offences committed also declined (Morris and Maxwell 2003).
A study of offenders attending court-referred restorative justice conferences showed a conviction rate after 12 months of 32 per cent, compared with the rate of 36 per cent for ten matched comparison groups (Triggs 2005).

In research on re-offending after restorative conferences, approximately 36 per cent of violent offenders in court re-offended, compared to only 10 per cent of violent offenders attending conferences. For property offenders there was no statistically significant effect on re-offending (Hayes 2005).

Summary

Almost all the evidence from these researches over a variety of models and countries shows some reduction in offending. However, the few anomalous results give rise to requests for more research on re-offending rates. It is not clear from these pieces of research what the salient factors are in reducing re-offending (but this is addressed by the last section in this chapter; see below).

Do victims and offenders find the process helpful and fair?

Even if the rate of offending stayed the same, from the point of view of victims and offenders (and victims especially), their satisfaction with the process should be reason enough to implement restorative justice schemes.

There is a methodological problem with many measurements of victim satisfaction, in that satisfaction with the mediation process is often confused with satisfaction with the outcomes of that process, or even satisfaction with the criminal justice system in general, which is beyond the control of mediators or mediation services. This applies to the victim satisfaction target for Youth Offending Teams: ‘Ensure that 75 per cent of victims participating are satisfied.’ It is not clear from this whether the satisfaction derives from the restorative process, the outcome or the general way they have been treated. Some practitioners have suggested that victims express satisfaction just that someone contacted them, as previously they had little say at all in the criminal justice system.

Here are some excerpts from research:

UK

The Home Office research 1985–7 showed that:

- **Victims**: 82 per cent felt that meeting their offender had been valuable. Twenty-two per cent said it had helped relieve their worries about the offence, while 60 per cent gave other reasons why they felt the meeting had been valuable. In addition, only 10 per cent of the mediation sample felt their offender should go to prison (compared with 48 per cent of the control group). Conversely, 40 per cent of the mediation sample felt that compensation was a sufficient sentence (compared with only 13 per cent of the control group). This shows that, after mediation, victims were less
inclined towards severe sentences and happier to accept more lenient sentences.

- **Offenders:** 86 per cent of the mediation group felt fairly treated, compared with 59 per cent of the control group.

(Marshall and Merry 1990, pp.165–7)

Many restorative justice services routinely monitor victim satisfaction rates with their service. In 1995/6, Northamptonshire Diversion Unit recorded 79 per cent of victims and 94 per cent of offenders as satisfied or very satisfied with the service (Northamptonshire Diversion Unit 1996). Leeds Victim–Offender Unit recorded 58.3 per cent of victims very satisfied, 33.3 per cent fairly satisfied and 8.3 per cent satisfied, with no dissatisfaction; but there were lower figures for satisfaction with outcomes – 41.7 per cent very satisfied, 29.2 per cent fairly satisfied and 29.2 per cent satisfied, with no dissatisfaction (Wynne 1996). This is what one might expect, given that many offenders are poor and often cannot reimburse damage they have done.

More detailed research on the Leeds and Coventry schemes in 1996 (N=123) showed that:

- 79 per cent of victims and 90 per cent of offenders were satisfied with the outcome of mediation
- 82 per cent of victims and 87 per cent of offenders felt they had participated voluntarily
- 80 per cent of victims said it was important to them to receive answers from their offenders about what happened; 93 per cent of offenders said it was important to them to be able to tell the victim what happened
- 90 per cent of victims said it was important to tell the offender the impact that the crime had on them
- 73 per cent of victims felt it was important to receive an apology; 90 per cent of offenders said it was important to apologise to the victim (80% of offenders did apologise)
- 65 per cent of victims and 62 per cent of offenders said it was important to negotiate restitution/reparation
- victims who took part in mediation were only half as likely to fear re-victimisation (16% vs. 33%).

(Umbreit and Roberts 1996, pp.7–14)

In Scotland, similar results were recorded in a mediation and reparation project which acted as an alternative to court (Hastie 1996):

- 72 per cent of victims said mediation allowed them to express their feelings about being a victim
- 69 per cent of offenders felt that they had a greater understanding of how their behaviour affected the victim
- 79 per cent of victims felt they were able to influence what the offender should do to make amends for the offence
- 84 per cent of victims felt this was a good way of dealing with the case; 72 per cent of offenders felt the same way
- 92 per cent of victims said they would recommend the mediation service to similar victims; 87 per cent of offenders said they would recommend it to other offenders
- when victims were asked why they chose to participate in the project
  - 20 per cent wanted to communicate their feelings to the accused
  - 64 per cent wanted to get something back from the accused
  - 28 per cent wanted to help the accused
  - 15 per cent had other reasons
- when offenders were asked the same question
  - 18 per cent wanted to communicate their feelings to the victim
  - 78 per cent wanted to help the victim
  - 16 per cent had other reasons.

In the Oxford University study of Thames Valley (Hoyle et al. 2002), when asked how they felt about the meeting, the vast majority of participants (including all but two victims and all of their supporters) felt that they had been treated fairly. Two thirds of participants felt that the sessions had helped offenders understand the effects of their behaviour (N = 67).

In the Essex Family Group Conferencing Project (Judge et al. 2002), victims were involved (either directly or indirectly) in over 90 per cent of the 30 conferences, and of these, 91 per cent reported being happy with the outcome. All the victims felt that the young person had been held responsible for their actions. The number of victims who were ‘very angry’ about the offence committed against them fell from 40 per cent before the FGC to 10 per cent after. Ninety-three per cent of family and friends who replied to the survey said they would recommend an FGC to someone in a similar situation. The youngsters themselves reported significant improvements in attitudes to offending after the conference, as well as reductions in the seriousness and persistence of offending. They did not experience FGCs as a ‘soft option’.

Crawford and Newburn (2003) carried out 18 months of research on the 11 pilot schemes for Referral Orders, from March 2000, when they were set up. These orders are only for those pleading guilty for their first offence in court. The researchers examined sentences between July 2000 and June 2001, in all a total of 1803 Referral Orders. They looked at all aspects of Referral Orders, including setting up, training and implementation. Some of the findings were:
The rate of attendance of victims varied between 0 and 41 per cent (average 13%); suggesting that some services were much more victim-oriented than others. Half the victims not attending would have liked to, if they had been invited at a time they could manage.

Seventy per cent of the young people accepted full responsibility for their offending and the remaining 30 per cent took partial responsibility.

Both young people and their parents experienced a sense of procedural justice at the Youth Offender Panels, and 75 per cent of the parents felt the panel took account of what they had said in deciding what should be done.

Victims showed a limited but significant shift after the panel and meeting the offender and his or her parent(s). Slightly fewer were frightened, more were sorry for the offender and quite a lot of them were less angry.

When asked what advice they would give to others about attending a panel, an overwhelming majority of victims said that they would encourage other people to attend. Many added that they had not found it easy and emphasised the importance of preparation and support.

A further study (Crawford and Burden 2006) examined a six-month cohort of 250 cases in 2004 from Leeds Youth Offending Service. Although only 15 per cent of victims attended Panel Meetings, victim involvement was found to be extremely beneficial to both victims and young offenders. Even some of those who preferred not to attend a Panel Meeting gained benefits: a chance to have their say, resolve some of their fears and put the crime behind them. Eighty-seven per cent of offenders said the Panel Meetings had given them a clearer idea of how people had been affected by their actions, and 96 per cent said that the Referral Order was helping them stay out of trouble.

In the Youth Justice Board’s evaluation of restorative justice projects 1999–2000 (N = 728), over 75 per cent of victims and offenders were positive about the experience and:

- felt well prepared by project staff
- found the process fair
- agreed their participation was voluntary, and that they were treated with respect
- believed that the intervention had helped the offender take responsibility for the offence.

Seventy-nine per cent of victims said they were now able to put the offence behind them and 62 per cent said they would recommend the process to others (Wilcox and Hoyle 2004).

In Northern Ireland, the Youth Conference Service started in December 2003, and a restorative conference is now the mainstream option, unless offences are too minor or very serious. The 2005 evaluation of the three pilot areas showed that 638 referrals had
been received, and 2276 people had participated in conferences. The participation rate of victims was 69 per cent, a very high rate compared to many other jurisdictions. This may be helped by the fact that conference facilitators take a short DVD of a conference (using actors) to play on a laptop computer when they visit victims. Eighty-one per cent of victims preferred the restorative youth conference to the court process and 88 per cent would recommend it to another victim. Ninety-four per cent of plans made at the conferences were completed. The Youth Conference Service works in conjunction with Community Services (another department of the Youth Justice Agency) to provide services for young people to complete their plans (Campbell et al. 2006).

An evaluation of Glasgow’s Restorative Justice Service for young people, set up in 2003 (mentioned in Chapter 7, p.166), showed that the small numbers of victims and offenders who met in a restorative conference were all very satisfied with their experience. All 18 victims felt they had been treated fairly and with respect, found the meeting helpful and believed the young people had been held accountable for their offences. All 25 young offenders also felt they had been treated fairly and with respect, felt the conference had helped ‘put things behind them’, believed they would not re-offend and had a better understanding of how their behaviour had affected their victim (Dutton and Whyte 2006).

In the Sacro evaluation described above (Nicol et al. 2006), 81 per cent of the persons harmed said they felt the service allowed them to influence what happened to the young person and 58 per cent said they had a better understanding of why the young person behaved the way they did. Eighty-nine per cent of the young people said they had a greater understanding of the impact of their actions on other people, and 78 per cent said that learning about the circumstances of the person harmed had changed what they thought about them. Ninety-seven per cent of parents and guardians said they would recommend the service to other people.

An interesting study which was part of the Justice Research Consortium’s research (see above) focused on robbery and burglary victims in London. Caroline Angel interviewed victims six weeks and six months after a restorative conference, and compared the results with those for victims in the randomised control group. At the six-week interview, the conference group experienced one third fewer post-traumatic stress symptoms (e.g. flashbacks, sleep difficulties, feelings of anger and physical symptoms) than the control group. While both groups continued to recover psychologically at about the same rate, six months later the conference group had maintained their lower level of symptoms, with 40 per cent fewer symptoms than the control groups (Porter 2006).

The Sheffield University evaluation of the Justice Research Consortium projects showed that about 85 per cent of victims and 80 per cent of offenders were satisfied with their experience (N = 200). Only 12 per cent of victims and 10 per cent of offenders expressed any doubt about the outcome agreement reached, and almost all thought it was fair. More than 70 per cent of victims in all eight trials said they found the conference useful and fair, and that it had given them a sense of closure about the offence (Sherman and Strang 2007, p.64).
Ireland
A pilot project of restorative cautioning and conferencing from 1999 to 2001 evaluated the outcomes from 68 cases involving 96 juvenile offenders. Key aspects of performance were scored 1–5 (5 being the maximum) with offenders’ engagement averaging 3.9 and victims’ 4.5. Other aspects included the offender accepting responsibility, being treated fairly and showing the victim they were really sorry, and the victim accepting the apology and being satisfied with the process. Seventy-nine per cent of cases were judged to be successful or very successful overall (O’Dwyer 2001). During 2003–2004, the number of restorative cautions and conferences rose from 118 (2003) to 177 (2004) (Juvenile Liaison Office 2003, 2004).

Other European countries
Several other European countries have undertaken research which showed positive feedback from victims: Austria, Belgium, Denmark, Germany and Norway. An Austrian/German study found a higher degree of satisfaction from women, and especially women in cases of domestic violence (Miers and Willemsens 2004).

US
In the Indianapolis Juvenile Restorative Justice Experiment, crime victims reported much higher levels of satisfaction at the way their cases were handled, than in court-ordered diversion (N = 312) (McGarrell et al. 2000).

In the Minnesota study (Umbreit 2001) high proportions of both victims and offenders reported being satisfied with the mediation process. Significant reductions in the fear of re-victimisation also emerged (N = 619).

There are only three studies of victim–offender mediation in crimes of severe violence in the US, of which two were exploratory studies of four cases each. The third study (multi-site, multi-year from 1998) examined programmes in Texas and Ohio, as well as some cases in other states. Eighty interviews with victims and offenders were completed for 41 mediated cases, most of which involved homicide. For both victims and offenders, there was a very high degree of satisfaction with the preparation, the helpfulness of the meeting and their overall involvement in the programme (76 to 93 per cent very satisfied with all these aspects) (Umbreit, Bradshaw and Coates 2003).

Australia
In the Australian RISE project (see above), nearly 90 per cent of crime victims offered the chance to attend a restorative conference during the project did so, whereas less than 9 per cent attended court to see their cases dealt with in the normal way (sometimes moreover only because they were required as witnesses). Over four fifths of victims felt they had received ‘restitution’ as a result of a restorative conference, compared to less than a tenth in court, and perhaps as a result the proportion fearing re-victimisation fell from 25 per cent to less than 4 per cent (Strang et al. 1999).
Strang also compared victims’ feelings about emotional harm and restoration after conferencing and after court.

- After court 18 per cent of victims anticipated the offender would repeat the offence on them, but only 5 per cent did so after a conference.
- After court 55 per cent of victims anticipated the offender would repeat the offence on another, but only 35 per cent did so after a conference.
- Before a conference, 20 per cent of victims feared the offender; afterwards this dropped to 9 per cent.
- Forty-six per cent of victims felt that the conference restored their sense of security, 35 per cent had never lost it and 19 per cent felt it was not restored.
- Sixty-seven per cent of victims felt the conference had been helpful, 21 per cent were indifferent and 12 per cent felt it had not been helpful.
- In solving problems, 88 per cent said the conference had helped, 12 per cent not.
- Whereas 63 per cent of victims felt anger towards the offender before the conference, only 29 per cent did afterwards.
- Conversely, sympathy towards the offender rose from 19 per cent of victims before the conference to 48 per cent after.
- Sixty per cent of victims experienced a sense of closure from the conference, 21 per cent were indifferent and 20 per cent felt no closure.
- Most victims (court and conference) felt they should receive an apology, but, of the cases that went to court, only 19 per cent of victims received an apology, compared with 72 per cent of those attending a conference.
- Only 41 per cent of victims at court felt the apology received was sincere, compared with 77 per cent of those at a conference.
- Only 14 per cent of victims were informed about their case in good time, compared with 79 per cent attending a conference.
- Overall, 70 per cent of victims attending a conference were satisfied, compared with 42 per cent of those whose cases were dealt with by a court.

(Strang 2002, pp.95–133)

All these elements are the ones that have been shown to be important to victims.

Strang also compared offenders’ views after court and after a conference. Here is a selection from the results for the youth violence group:

- 77 per cent of offenders taking part in a conference said they had an opportunity to express their views, compared with 38 per cent of those who went to court
- 81 per cent of offenders taking part in a conference felt their treatment took account of what they said, compared with 42 per cent of those who went to court
- 65 per cent of offenders taking part in a conference felt they had a chance to repay society and 62 per cent the victim, compared with 29 per cent and 21 per cent of those going to court
- 58 per cent of those attending a conference felt they understood what it was like for victims, compared to 17 per cent of those going to court
- 81 per cent of offenders taking part in a conference felt able to clear their consciences, compared to 38 per cent going to court
- 58 per cent felt that they were treated as a trustworthy person during a conference, compared with 26 per cent of those going to court
- As a result of all this, 46 per cent of offenders had increased respect for the justice system, compared with 21 per cent going to court.

(Strang et al. 1999)

The South Australia Juvenile Justice (SAJJ) project showed high levels of procedural justice, and that conference participants felt treated fairly and with respect (N = 89). But in this study (1998–9) it seemed to be hard for victims and offenders to find common ground and appreciate each other’s positions (Daly 2003).

Summary

All the studies show high or very high rates of satisfaction with the process of victim–offender mediation or conferencing. Victims and offenders felt they were treated fairly and with respect. Most preferred it to the court process. Victims with post-traumatic stress symptoms recovered more quickly after a restorative intervention than a conventional criminal justice process.

Are agreements about compensation and reparation fulfilled?

UK

In research on the Kettering Adult Reparation Bureau in 1987–9, it was found that, of 214 cases, agreements were made in 86 per cent of these. Of the agreements made, 91 per cent were kept in full. The agreements included some with apology only (38%) and some with apology plus compensation/reparation (62%). The rates of completion here were much higher than those for court-ordered compensation (where compensation is imposed), because offenders had been involved in reaching the agreements, and because they understood what the compensation was for (Dignan 1990).

In the Northamptonshire Diversion Unit 1994–5, a total of 93 per cent of compensation was paid after mediation, compared to 48 per cent for compensation ordered by
Inner London Youth Court (Northamptonshire Diversion Unit 1996). In the Scottish project already mentioned, 75 per cent of cases reached agreement and 73 per cent of the total were completed (Hastie 1996).

In the Oxford University study (N = 67) of Thames Valley (Hoyle et al. 2002), one year after the restorative session, 59 per cent of agreements had been fulfilled and 29 per cent had been partially fulfilled (for instance, a letter of apology but no money, or only part of the money paid). However, the partial fulfilment was often seen by victims as little better than non-fulfilment.

In the Referral Orders research, the type of reparation found in the contracts included mostly community reparation (42%) and written apologies (32%), with small numbers of verbal apologies, doing jobs for parents, paying compensation, paying money to charities, mediation and restorative conferences (N = 1803). Some results were:

- Rates of completion varied according to how many offences were being considered: for only one offence the completion rate was 75 per cent; for more than one 64 per cent; for more than one count of a main offence 50 per cent.
- Similarly, the rate of completion was 89 per cent for contracts with only one element, falling to under 70 per cent for four or more elements (but this is still quite a high rate).

(Crawford and Newburn 2003, pp.135, 139, 140)

Canada

In the Winnipeg-based Restorative Resolutions project, 25 victims had face-to-face meetings with offenders; 58 received written apologies; and restitution totalling over $130,000 was paid (Bonta et al. 1998).

Summary

In general compensation and reparation are completed far more readily in association with mediation or conferencing, as the offender understands the purpose more than if it is just imposed. However, in some cases where agreements are not fulfilled, there is a need to provide support to enable this to happen.

Is restorative justice cost-effective?

Cost-effectiveness is very difficult to estimate in the criminal justice system, because extra costs in one part of the system can lead to savings in another part. For instance, if restorative justice diverts cases from court, then court costs would be saved. If it leads to lower re-offending rates, then all sorts of savings might be made (in terms of police, victims, courts, prisons) – but it is very hard to pin these down.

Moreover, the ‘effectiveness’ element includes many variables that are difficult to measure in monetary terms, such as ‘better attitude’, ‘victim satisfaction’, ‘putting right
the harm’ and so on. In spite of these difficulties, there have been a few attempts to measure the cost-effectiveness of restorative interventions.

UK
A study in Scotland (Knapp and Netten, in Warner 1992) concluded that, for comparatively simple matters that would not lead to either a trial or imprisonment, mediation and reparation were actually more expensive. However, this must be set alongside the ‘effectiveness’ criteria.

Time spent in processing a case may have implications for cost. A study by Stone, Helms and Edgeworth (1998) showed that the total time to process mediated cases was only a third of that needed for non-mediated cases.

Miers et al. (2001) showed that the West Yorkshire victim–offender mediation service, while not a diversion scheme (so no court savings from diversion), did result in a reduction of re-offending. It was therefore cost-effective in terms of the savings from prevented reconvictions, although only for the higher risk offenders. For the latter, the cost per prevented conviction (£340) compares with the cost of Crown Court proceedings and sentence of £33,500. However, the cost of £1300 per prevented reconviction for the lowest risk group (higher because fewer offences) is relatively expensive when compared with the estimated average of £820 for a case proceeding through the magistrates’ courts.

US
One example, the North Carolina District Criminal Court Mediation Program (described in Chapters 11 and 12), puts the cost of a mediated case at $108, compared with $396 for a court case, a saving of $288 per case. This results in criminal court mediation saving the state about $3,602,000 per year (Jabbar and McGeorge 2006).

‘Bridges to Life’ (BTL) is an in-prison restorative justice 12-week course in Texas prisons, which costs $450 per prisoner to run. The recidivism rate for BTL graduates is 14.3 per cent compared with an average of 24.6 per cent in Texas. The programme estimates that, even if only one prison sentence (at a cost of nearly $70,000) were prevented per 100 participants, the programme would still be cheaper than the prison costs incurred (Armour 2006).

Canada
One of the most dramatic cost-benefit analyses was the Native Counseling Services of Alberta (Canada) study of the Hollow Water’s Community Holistic Circle Healing project (CHCH) (see Chapter 12). This scheme diverted 94 sex offenders/abusers from the provincial and federal justice system through Healing Circles. Very few of them re-offended. Researchers estimated the savings to the justice system were between $6,000,000 and $16,000,000 (Native Counseling Services of Alberta 2001).
New Zealand

In New Zealand, research on the first three years of FGCs (Morris and Maxwell 1998) showed that court appearances had dropped from 67 per 1000 young people in 1988 to 16 in 1990 (Maxwell and Morris 1994, p.26); and rates of custody dropped from 300 cases to about 100 cases per year over the same time (Maxwell 2003, p.8). Moreover the number of children in state institutions dropped from 2000 in 1988 to under 100 in 1996, and many residences were closed (McElrea 1998). These outcomes clearly led to considerable savings.

Summary

The highest savings occur when restorative justice is used to divert offenders from court processes. There are also savings to be made when restorative justice is used alongside standard criminal justice processes, if it prevents further offending – and the savings are greatest for high-risk offenders, which suggests that more use should be made of restorative justice for this group. For low-risk offenders, restorative justice in addition to standard sentencing may actually increase the costs.

Victim–offender groups

These are groups of victims and offenders, not from the same crime, which meet for several sessions. (See Chapters 4 and 9, pp.100–1 and pp.215–18, for description and case studies.)

UK

The victim–offender group in Rochester Youth Custody Centre, described in Chapter 9 (pp.215–16), was evaluated with a control group. Some of the findings were:

- Victims rated themselves as less anxious and angry after meetings, and rated burglars more positively, friendly and likeable.
- Offenders rated victims more positively afterwards, and had a better understanding of victims’ attitudes and the impact of burglary on them.

(Launay 1985, 1987; Launay and Murray 1989)

US

The Washington State Reformatory pilot study 1997–8, involving victims, offenders and citizens, was evaluated by Helfgott, Lovell and Lawrence (1998) and showed that:

- 81 per cent of offenders felt that if such seminars were offered on a regular basis, it would have a positive impact on prison subculture
- most offenders had rarely, if ever, recounted their crimes while in prison and they wanted to do so
- victims felt it had been a healing experience and they found it easier to discuss the gruesome details of the offence with offenders than with members of their family or friends
• 100 per cent of citizens felt it had been a positive experience
• victims had less fear of re-victimisation and felt less ashamed
• victims had a greater willingness to accept murderers as neighbours
• citizens had a greater awareness of how they could help victims and offenders.

Summary
Victim–offender groups also provide some of the same benefits as victim–offender mediation, and are useful in situations where the latter is not possible.

What works in implementing restorative justice?
In 2001 Morris and Maxwell edited their book *Restorative Justice for Juveniles*, containing chapters on different models and from different countries. From the research results presented in these chapters, they drew out the ‘best practice’ factors that make restorative processes work (pp.278–80):

• preparation
• providing victims and offenders with realistic options
• consulting all parties
• safe procedures that are respectful of all
• confidentiality
• communicating views of key participants if they are not present
• allowing as much time as is needed
• developing processes which encourage empathy and understanding
• creating an environment in which some reconciliation is possible if parties wish
• ensuring both offenders’ and victims’ rights are safeguarded
• working towards agreed outcomes which make amends to victims to the extent that this is possible
• reviewing and monitoring outcomes
• following up what was agreed at the meeting
• providing feedback to victims and professionals about completion of agreed tasks
• providing ongoing support for both offenders and victims
• providing secure and adequate funding to support the above.
Summary

The general evidence on restorative justice is mostly very encouraging. In particular it is popular with victims, which is most important, as the whole point of restorative justice is to repair the harm. The rates of involvement of victims vary, which suggests it is the way they are approached which makes the difference, and points to an area for improvement for many services. Results for recidivism are also mostly positive, though there are a few studies that show no change or a slight increase in offending. It is important to make sure that schemes studied are truly restorative. The fact that studies differ from each other means that they cannot be easily compared, but the meta-analyses now available give more reliable data.

In view of these research results, it is possible to have real confidence in restorative justice, provided that it follows good practice guidelines.

References


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I would like to acknowledge particular help in compiling this chapter from the following:


Restorative Justice Consortium (2006) *Restorative Processes and Outcomes for Victims*. London: Restorative Justice Consortium. (This document is intended to be updated as new research becomes known, and can be found on www.restorativejustice.org.uk)
CHAPTER 15

Restorative Justice
After Large-Scale Violence or Oppression

Introduction
So far in this book we have been looking at restorative processes as ways of dealing with harms committed by people on a small scale in terms of numbers (though not necessarily of seriousness); crimes involving individuals, or small communities such as a school or village. In this chapter we will look at the attempts to apply restorative principles to large-scale violence and harm, such as mass murder, torture and oppression. These attempts include Truth Commissions and other healing rituals carried out in several countries. I will look at those in South Africa, Rwanda, East Timor, Latin America, Northern Ireland and the Balkans. This selection is based on projects where I have had some personal connections and could gather material.

Before considering Truth and Reconciliation Commissions, it is worth looking briefly at the benefits and drawbacks of a retributive system. Once oppression is over and the atrocities have stopped, there are two main thoughts in everyone’s mind: how to get back to normal life and how to deal with the perpetrators of the atrocities. Justice often means hunting down the perpetrators and punishing them, either with death sentences or with very long terms in prison. This sounds straightforward but is often quite the reverse, as the following paragraphs show.

Nuremberg trials
After the end of the Second World War, the International Military Tribunal at Nuremberg 1945–9 tried the top Nazi leaders for war crimes and crimes against humanity. This was important in establishing:

• the concept of a crime against humanity
• the right of the international community to put people on trial for such crimes
• that the defence of ‘just following orders’ was not viable.
In the main Nuremberg trial, only 22 leading figures were tried (of whom 19 were convicted). After this, the three occupying forces (Britain, the US and the Soviet Union) tried people further down the Nazi hierarchy, who received fairly short prison sentences – largely because of pressure from the post-war German government which wanted to get on and rebuild the country, but also because the US was keen to build up Germany as a bulwark against Communism (Hird 1997).

Simon Wiesenthal continued the work of hunting down Nazi criminals, and managed to bring some more to justice in the 1950s. Even so, by the early 1970s, 30 years after the end of the war, fewer than 400 life sentences had been passed, while millions had been killed in concentration camps and other ways. Many former Nazis, who had been involved in major and minor ways in helping to perpetrate the atrocities, were able to live their lives out in normality.

This kind of justice was a symbolic justice, in that it was selective and only included a few of those responsible. Despite these shortcomings, the Nuremberg trials did help to open up what happened during World War II, and encouraged the idea of collective responsibility for such atrocities.

**International Criminal Courts**

**International Criminal Tribunal for the former Yugoslavia**

The International Criminal Tribunal for the former Yugoslavia (ICTY) was set up in 1993 in The Hague, and has been regarded as a milestone in international cooperation and recognition of the need to do something collective and public about war criminals. Its job has been to try those responsible for the genocides in former Yugoslavia, the first international trial since the Nuremberg trials. Although a few individuals have been tried, and have been given long prison sentences, many have not been found. It is thought that they are being shielded by nationalists within their own countries. The search for these people has been seen by some nationalists as an attack on their people, raising the prospect of renewed violence in an already unstable region (Hird 1997; International Criminal Tribunal for the former Yugoslavia 2005). In addition to the ICTY, domestic trials in Serbia, Bosnia and Herzegovina and Croatia have also started.

**International Criminal Tribunal for Rwanda**

The International Criminal Tribunal for Rwanda was set up in November 1994 after the genocide in Rwanda, and sits in Arusha, Tanzania. (See the section below on Rwanda for more details.)

**International Criminal Court**

The International Criminal Court (ICC) is the first ever permanent, treaty-based, international criminal court established to promote the rule of law and ensure that the gravest international crimes do not go unpunished. It was established by the Rome Statute in 1998, adopted by 120 countries (but not China, Iraq, Libya or the US) and came into force in 2002, based in The Hague, the Netherlands. It can prosecute individuals
accused of genocide, war crimes and crimes against humanity, if the countries concerned are unable or unwilling to do so (Bloomfield, Barnes and Huyse 2003; Human Rights Watch 2003; International Criminal Court 2005).

These courts have been a big step forward in an international acknowledgement of responsibility, and the existence of the ICC means that no time need be wasted in setting up a new court for each situation. However, the legal trial process is very slow, so that it takes many years just to prosecute one individual. Meanwhile, those who suffered have to wait for justice.

Truth Commissions

Truth Commissions have been set up in many countries, usually established by new governments to research and report on human rights abuses over a certain period of time in a particular country or in relation to a particular conflict. Truth Commissions allow victims, their relatives and perpetrators to give evidence of human rights abuses in an official forum. They work for a limited period, and usually produce a final report with conclusions and recommendations. The aim is to account for and end past abuses, promote reconciliation and make a fresh start.

Countries which have had Truth Commissions over the last 30 years have been: Argentina, Bolivia, Chad, Chile, East Timor, Ecuador, El Salvador, Germany, Ghana, Guatemala, Haiti, Nepal, Nigeria, Panama, Peru, Philippines, Serbia and Montenegro (formerly Federal Republic of Yugoslavia), Sierra Leone, South Africa, South Korea, Sri Lanka, Uganda, Uruguay and Zimbabwe (US Institute of Peace 2005).

The most famous and successful of these has been the South African Truth and Reconciliation Commission, and I will describe this first, as those who designed it were able to learn lessons from other less successful ones. I will then include briefer comments on some other countries’ efforts.

South African Truth and Reconciliation Commission

This was set up after the change of government and abolition of apartheid in 1994, to deal with the atrocities and human rights abuses committed by the apartheid regime over many years. Desmond Tutu, in his book No Future without Forgiveness (1999), lists the reasons why he considered Nuremberg-style trials would not work in South Africa:

- The Nuremberg trials were imposed by the occupying powers as ‘victor’s justice’ – however, in South Africa neither side had won a decisive victory. The security forces would not have supported a negotiated settlement if they then had to face prosecution as perpetrators. Also – they still possessed the guns.
- If the new South African government treated the perpetrators harshly, they would bide their time and try to return to power.
- The cost of such trials would be an impossible burden for an already strained judicial system. Two cases which had been processed through the
courts had cost one million and two million US dollars respectively (and one of those had failed). In a country such as South Africa, this money was desperately needed for health, housing and education.

- Continuing the hunt for perpetrators for years would disrupt the fragile peace and stability of the newly reformed nation.
- Courts require evidence to prove cases beyond reasonable doubt – but often the only witnesses to the South African atrocities were the perpetrators themselves, who tried to cover up or destroy evidence of their actions.
- In South Africa the judicial system had often colluded with the police to produce miscarriages of justice, so it had a poor reputation with most people.
- With legal cases, there is often a statutory time limit, so that crimes may be ruled out because they happened too long ago.
- Trials do not necessarily reveal all that happened, so relatives could remain ignorant of important aspects of events.

South Africa also rejected the idea of a ‘blanket amnesty’, in which all perpetrators would be given a general amnesty, as happened in Chile. Their reasons for this were:

- Unless properly dealt with, the past would come back to haunt them.
- A general amnesty would deny victims the opportunity to tell their stories.

The South African Truth and Reconciliation Commission (TRC) was set up in December 1995, to cover the period 1960 to 1994. The period chosen dated from the Sharpeville Massacre in 1960, which marked a turning point towards a more repressive regime, to Nelson Mandela’s inauguration in 1994. It was set up to work for two years (extended to three) and reported in 1998. It was limited to dealing with ‘gross violations of human rights’, to include killing, abduction, torture and severe ill-treatment. It had three committees:

**Human Rights Violations Committee**

The Human Rights Violations Committee investigated human rights abuses and heard testimony from victims and their relatives about the nature and extent of the harm they had suffered. Once they had been identified and declared victims by the panel, they were referred to the Reparation and Rehabilitation Committee. Many victims who came to the Commission said they had found relief and healing just through the process of telling their story.

**Reparation and Rehabilitation Committee**

The Reparation and Rehabilitation Committee aimed to provide victim support, and to formulate policy proposals and recommendations on the rehabilitation and healing of survivors, their families and communities at large. Reparation was envisaged to help affected individuals to rebuild their lives, with small sums towards such things as educa-
tion bursaries, trade training, medical treatment, tombstones, money to prevent eviction from homes, etc. It was not regarded as compensation, for nothing could adequately compensate victims for their suffering, but rather as a symbolic and practical recognition of what they had been through. A President’s fund was established to pay urgent interim reparation to victims in need. By the end of 2001, nearly 17,000 victims had received payments from this fund. Nevertheless, delays in payments led to public debate and widespread criticism. Whereas perpetrators received their amnesties immediately (see below), victims had to wait — sometimes years — for their reparation. For some victims, this felt like a re-traumatisation.

Amnesty Committee

The Amnesty Committee considered applications from perpetrators for amnesty, in which case they would be free from prosecution for the act in question. Each person had to apply individually and then appear before an independent panel which decided whether the applicant satisfied the amnesty criteria. Amnesty was only granted to those who pleaded guilty, accepting responsibility for what they had done, and gave full disclosure relating to that particular crime. Perpetrators not granted amnesty could be prosecuted later. There were 7000 amnesty applications. There are many questions regarding the rights and wrongs of amnesty, but it did mean that many victims felt vindicated by hearing the truth from the perpetrator’s own lips.

To gather the evidence for the Amnesty Committee, the TRC had nearly 350 staff and offices in Durban, East London, Johannesburg and Cape Town. Its hearings were held in public (unlike TRCs in many other countries) and reported daily on radio and television. It considered abuses perpetrated by both the white state organisations and the black African National Congress (ANC). It employed specially trained statement-takers who travelled all over the country to take statements from victims and perpetrators. It provided support to help victims come forward, as there was a worry that they would not — but they did. The TRC received over 20,000 statements, more than any TRC in any other country. Only about one in ten of those who made statements were able to testify in a public hearing — these were chosen by the Commission to be a representative spread.

The concept of ubuntu is very important in South Africa — it is difficult to translate but has attributes of sharing with other people, of humanity, of compassion; and a concept of one person’s humanity being inextricably bound up in the humanity of others. ‘A person is a person through other people.’ This concept means that a restorative approach is more in line with local culture than a retributive one.
Case studies: South African Truth and Reconciliation Commission

Brian Mitchell, a policeman in KwaZulu/Natal, gave an order to some special constables (who received very little training) to attack a group of alleged ANC supporters. However, the special constables attacked the wrong group, and killed 11 people, mainly women and children, attending a vigil. He was found guilty and sentenced to 30 years imprisonment. He applied for amnesty to ask forgiveness from the community he had helped to destroy. They said they were willing to give it, provided he became actively involved in reconstructing the community. He asked to visit the community and spoke to them. Initially the meeting was quite tense, with some people still quite suspicious of him, but gradually the atmosphere eased and they parted company cordially. It was one small step along the road to putting things right.

(Tutu 1999, pp.137–8)

A car bomb planted in the centre of Pretoria by the ANC near the headquarters of the South African Air Force (SAAF) resulted in 21 deaths and 219 injured people. The perpetrators applied for amnesty, and one of the injured people, Neville Clarence, who had worked for the SAAF and had been blinded by the bomb blast, attended the hearing. The main perpetrator, Aboobaker Ismail, apologised for causing the civilian casualties. Neville Clarence did not oppose the amnesty, but went up to Mr Ismail and shook his hand. He told him he forgave him even though he had lost his sight, and said he wanted them to join forces to work for the common good of all. This picture was shown on TV and in the newspapers as an example of what the TRC was all about.

(Tutu 1999, p.120)

Of course there were weaknesses in the TRC. The TRC failed to attract the bulk of the white community, who only saw in it a loss of political power. Perpetrators from the military rarely came forward (although police did come forward, and their telling the truth helped many victims feel vindicated). And the TRC could not tackle the gross inequalities and poverty which are also a legacy of apartheid.

When the TRC finished hearing cases in 1998, a special unit in the National Prosecuting Authority (NPA) was set up to pursue the perpetrators of gross human rights violations who had not been exonerated by the TRC’s Amnesty Committee. In 2006 there was an appeal by seven international human rights lawyers against intentions to relax this search, as they felt it would grant impunity to many perpetrators. Many victims said they were still waiting for an apology. The government limit for payments to victims also came in for renewed criticism.

Whatever the weaknesses of the TRC in South Africa, it is clear that its strengths helped to avoid the predicted ‘blood bath’ and enabled many people to come to terms with the past in a restorative way, which enabled them to face the future more positively. It was important too that it was a public and symbolic way for a country to face up to its past and begin to deal with it (Nullis 2006; South African Government Information website 2003; Terreblanche 2006; Truth and Reconciliation website 2003; Tutu 1999).
Healing of Memories Project

This project was set up by Father Michael Lapsley in 1998 (mentioned in Chapter 13, pp.327–8), to provide opportunities for those who could not tell their stories publicly to the Truth and Reconciliation Commission. It runs workshops which bring together people from different backgrounds – including both victims and perpetrators – to tell their stories in a small group setting. The workshops are experiential and interactive in nature, with an emphasis on emotional and spiritual understanding of the past. Through an exploration of their personal histories, participants find emotional release and empathy with experiences of others. These processes prepare the ground for forgiveness and reconciliation between people of diverse backgrounds, races, cultures and religions (Institute for Healing of Memories 2005). For arts aspects of these workshops, see Chapter 16, pp.409–10.

Rwanda: Genocide

In 1994, about a million Rwandan citizens were killed during the genocide perpetrated against the Tutsis and the massacres of moderate Hutus, planned and carried out by the Hutu government. Approximately three million people were forced into exile. The country was laid waste. The institutions in charge of upholding the law (courts, police, prisons, etc.) ceased to function.

In November 1994 the UN Security Council recognised that serious violations of human rights had taken place and set up the International Criminal Tribunal for Rwanda (ICTR). In 1995 it was decided that the seat of the tribunal would be in Arusha, Tanzania. The first accused arrived at Arusha in 1996, and the first trial took place in 1997. As of March 2005, the ICTR had handed down 17 judgements involving 23 accused (20 were convicted, three acquitted). Although these were ‘high profile’ cases, the process is a lengthy one (International Criminal Tribunal for Rwanda 2005).

Almost 130,000 people accused of having organised or taken part in the genocide have been put in prison. After eight years, around 125,000 were still in detention awaiting trial. Lawyers estimated that it would take 200 years to hear these cases, let alone those of others not yet arrested. However, a general amnesty was out of the question as everyone agreed that those responsible for the genocide should be held accountable for their acts, in order to eradicate the culture of impunity and reinforce respect for the law.

The government came to the conclusion that a conventional European-style justice system could not be the only way forward, so searched for alternatives. In 1999, this led to the proposal of an alternative justice system: the Gacaca jurisdictions, a new system of participatory justice (based on a traditional community conflict resolution system), in which the whole of society would take part. After several redrafts, the ‘Gacaca law’ was adopted and published in March 2001. (Gacaca is a Kinyarwandan word meaning ‘justice on the grass’.)

The main principle of the Gacaca courts is to bring together all of the protagonists at the actual location of the crime and/or massacre, i.e. the survivors, witnesses and presumed perpetrators. All of them should participate in a debate on what happened in
order to establish the truth, draw up a list of victims and identify the guilty. The debates are chaired by non-professional ‘judges’ elected from persons of integrity in the community, who decide on the sentence for those found guilty.

According to the government, the advantages of the new *Gacaca* jurisdictions are:

- Victims and suspects do not have to wait for years for justice to be done.
- The cost of prisons is reduced, enabling the government to concentrate its resources on other urgent needs.
- The participation of every member of the community is the best way to establish the truth.
- The *Gacaca* courts enable the genocide and other crimes against humanity to be dealt with much faster than the formal justice system. This should end the culture of impunity.
- Sentencing people to community service aids the reintegration of criminals into society.
- All this should aid the healing process and national reconciliation in Rwanda, seen as the only guarantee of peace and stability in the future.

The people accused of genocide are divided into four categories:

- No. 1 Category: the planners, organisers and leaders of the genocide, those who acted in a position of authority, well-known murderers and those guilty of rape and sexual torture.
- No. 2 Category: those guilty of, or complicit in, voluntary homicide or acts resulting in death, or inflicting wounds with intent to kill, or other serious violent acts not resulting in death.
- No. 3 Category: those who committed violent acts without intent to kill.
- No. 4 Category: those who committed crimes against property.

The accused in the first category are judged by the ordinary courts. For all other cases the government created around 11,000 *Gacaca* jurisdictions, each made up of 19 elected judges known for their integrity. Over 254,000 of these civil judges were elected between the 4 and 7 October 2001 and received training in 2002 before the courts began to function (Keyumba 2000; Penal Reform International 2006).

The government encouraged prisoners to confess their deeds and ask for forgiveness, in return for which they would be given temporary release and asked to attend a *Gacaca* hearing, and perform community service. However, although many of these confessions are sincere and display heartfelt remorse, there are also concerns from survivors that some confessions are made only to obtain release, and are not based on genuine remorse. There is still a lot of fear and mistrust between Tutsis and Hutus, and not everyone feels safe telling the truth. And although provisions exist for compensation and reparation to be made, in practice this has not happened (Penal Reform Interna-
Penal Reform International (PRI) continues to research and support the Gacaca process (Penal Reform International 2006).

**Case studies: Rwanda – views of Gacaca**

Despite these reservations, the general population is in favour of Gacaca hearings. In the words of one survivor:

Unity and reconciliation are essential, since, however that may be, we must all live together in this country. So we must not live in conflict, because war does not benefit anyone. I think that there is no part of the population that believes they are blessed through war or no part that believes they have peace and another does not. Me, I accept them and I admire them. The only thing I see that could lead to this unity, is the truth.

(Penal Reform International 2004, p.17)

And a released prisoner:

It’s a fact that when leaders are good, so are their followers, so we will succeed without difficulty. When the leaders are bad, the followers are also bad. What I’m emphasising is that with this government, the good things taken from tradition are presently applied in the Gacaca. We will get there.

(Penal Reform International 2004, p.8)

**East Timor: Reparation**

East Timor, a former Portuguese colony situated halfway between Australia and Indonesia, declared itself independent from Portugal on 28 November 1975. Nine days later it was invaded by Indonesian forces. Over the next two decades the Indonesian occupation led to an ethnical campaign, including widespread repression and the deaths of the least 108,000 Timorese (out of a total pre-occupation population of 700,000). On 30 August 1999, the East Timorese people voted overwhelmingly for independence in a UN-supervised referendum. Three years later, on 20 May 2002, it became a sovereign state.

As part of the preparation for independence, a Commission for Reception, Truth and Reconciliation was established in 2001 to begin the process of healing the wounds of the past and collecting evidence of the occupation years, as well as the 1975 civil war. Local Timorese who had collaborated with the Indonesians and engaged in acts of violence and destruction were offered an opportunity to ask for forgiveness for their past deeds (provided these did not involve murder or manslaughter), and to be welcomed back into their respective communities. At a ceremonial meeting in their village (the format of which varied from area to area according to local custom), the perpetrator was asked to make a full confession, the case was then fully discussed by the community, and an agreement reached. This usually included a formal apology by the perpetrator in front of the whole community and a practical reparation task to be completed for the village to make amends. This was not compulsory, as the perpetrator could
choose to have his case heard through the justice system, which might lead to a possible prison sentence (Carey 2007).

**Latin America: The Disappeared**

In several countries in Latin America, such as Argentina, Chile, Guatemala and Peru, the emphasis of Truth Commissions was on finding out what happened to people who were made to ‘disappear’.

**Argentina**


**Case study: Argentina – mother of one of the Disappeared**

Marta Vásquez was the mother of one of the Disappeared in Argentina. Her daughter disappeared at the age of 23 while pregnant; her only crime seemed to be that she was a volunteer community worker in a poor shanty town. Although the report did not provide Marta with the whole truth, she pursued it through a former military officer who had confessed to throwing the bodies of the Disappeared from an aeroplane into the sea off Argentina. They were drugged, stripped, loaded into planes and then thrown into the sea while asleep. The military officer was in prison for his offences, and Marta took him a photograph of her daughter. Although the officer could not confidently recognise her, he confirmed that pregnant suspects were kept until their babies were born. ‘They stole their children, then killed their mothers.’ These children were then adopted by military families. Although the meeting confirmed Marta’s worst suspicions, she found it helpful. She said, ‘I’m not frightened any more. My aim now is for my grandchild to know the truth.’ This encounter enabled her to set out on the next leg of her journey, to find her grandchild.

(Hird 1997)

**Chile**

Roberta Bacic worked as a testimony-taker and assistant researcher from 1993 to 1996 for the Chilean National Corporation of Reparation and Reconciliation, which followed on from the Truth Commission set up in 1990 to document gross human rights abuses resulting in death or disappearance during the years of military rule from 1973 to 1990. She completed 1000 testimonies and later on set up several memorial exhibitions and participated in ceremonies (e.g. planting trees) in memory of the Disappeared. Small amounts of reparation were available for the relatives of the Disappeared, for instance university fees for orphans. However, for most cases there was a general amnesty for perpetrators, who were often seen as enjoying complete impunity (Bacic 2004a, 2004b).
Case study: Chile – mother of one of the Disappeared

Roberta Bacic (2002) wrote an account of a woman whose son had disappeared:

Therefore I want to take you to a dark cellar on Bilbao street in Osorno, where these women and I gathered and shared the search, the experiences, the stories, the facts and feelings. Also the rage, the plans and the way to confront injustice, impunity and ultimately confront dictatorship.

Juanita used to tell us: ‘I cannot accept the fact that I told my son off on the same morning they took him away. I told him they were looking for him because he got too involved in politics and that would bring problems to us all. And he didn’t even have breakfast before they came to get him. And I will remain forever with that bitterness, that he left sad, with his mother’s angry words, without her support and consolation. I don’t want to imagine what his last moments would have been like.’ And Juanita, always sweet and tender, looking for consolation in the Protestant Church, wandering with the rest of the women of the Agrupación de Familiares de Detenidos Desaparecidos (Association of Detained Disappeared), looking for her son and for justice, supporting her needier neighbours, cooking for her husband, her children and grandchildren. Juanita left with a smile, in spite of her infinite sorrow, with her new black shoes we had just given her to cover her feet, tired and cold during her endless walking. When she died in poverty in her poor house in a back street of Osorno, not even then could she find complete peace: men in uniform occupied part of the street, they came to where she was lying, interfering with the process of mourning that she deserved and her relatives had a right to; a right that they have been completely denied regarding her son.

Guatemala

In Guatemala over 200,000 people were killed or disappeared between 1960 and 1996, and exhumations had an important role in helping the community to come to terms with the trauma, for several reasons:

- The uncovering of mass graves proved that massacres had actually happened.
- The bodies could be identified so that people could know what had happened to their relatives.
- The bodies could be given a proper burial. This is very important in Maya culture (and in many others).
- It gave the community a chance to come together to talk about these things.

(Gidley et al. 1999)

Peru

In Peru, a Truth and Reconciliation Commission was set up along similar lines to the South African one, to investigate the 69,000 people killed or ‘disappeared’ between
1980 and 2000. It held public hearings between January 2002 and July 2003. The TRC report was published on 28 August 2003. During the following year, several activities were initiated, mainly by civil society, which formed a movement called ‘That it may not be repeated’. The events included a large concert involving many artists and musicians. Thus it was not forgotten, despite the fact that many of the recommendations of the TRC had not been put in place. The TRC had also researched a visual legacy, which is described in Chapter 16, p.415 (Dawson 2004; Human Rights Watch 2004; Peru Truth and Reconciliation Commission 2003).

Northern Ireland

The six counties of Northern Ireland remained under British rule as part of the treaty that made Ireland independent from Britain in 1921. The reason for this was that the Unionist community (largely Protestant with English or Scottish ancestry) held a majority over the Nationalist (largely Catholic) community. In the 1960s the Nationalists, who felt economically and politically marginalised, started protesting against British rule. This led to prolonged civil unrest and violence, called ‘The Troubles’. Shootings and bomb attacks took place in Northern Ireland, and also in Britain and the Republic of Ireland. About 3700 people died, and many more were injured. In 1998 the Good Friday Peace Accord was signed, which led to independent government for Northern Ireland and withdrawal of most British troops. Since then there has been renewed unrest in some areas and a return to direct rule by Britain, but progress has been made. The conflicts are largely about land, politics and power rather than religion as such (De Vries and De Paor 2005; White 2003).

There are many, many projects which have been established to cope with the conflict in Northern Ireland and its aftermath – these are just a few examples.

Healing of Memories Project

The Healing of Memories Project was started in 1998, after contact with the South African project of the same name. It was set up with a similar aim, to help people suffering from trauma as the result of the conflict, to make a personal journey through their conflict, in the company of others. The form of the journey is a two-day residential workshop with 12 participants and three facilitators. The founder, Alistair Little, himself an ex-combatant, has tailored the workshop to the Northern Ireland situation.

Case study: Northern Ireland – Healing of Memories workshop

The participants may be victims of violence, or family of people who died, or ex-combatants, from both sides of the political divide; participants may be both victims and ex-combatants. They are interviewed beforehand to make sure they understand the nature of the workshop and are ready to undertake it. The first evening is given over to introductions, ‘barriers and enablers’ of participation, and attention to safety. The whole
of day 2 is spent exploring participants’ stories, first on their own using art materials, then verbally in small groups with a facilitator. These groups provide space for each person to talk, and are usually very emotional experiences. The day finishes with social time for people to relax and form bonds with each other. The last day uses clay to look at things that are important to participants and helps them look forward. The morning finishes with a group ritual placing the clay pieces in the centre, and those who want lighting a candle. After a final check-out with the group, participants have lunch and travel home.

Here are a few responses from participants:

- I’ve been waiting 15 years to hear people say the things they’ve said this weekend.
- It’s still difficult to trust but I’m learning for the first time that it’s OK to be me.
- I’m leaving with more questions than answers, but they are different questions from the ones I came with.

(Little 2005)

Arts aspects of this programme are described in Chapter 16, pp.409–10.

LIVE Project, Glencree Centre for Reconciliation

The Glencree Centre was established in 1974 in the Irish Republic as a response to the situation in Northern Ireland, and has run many programmes of peacemaking for communities in Ireland and Britain. The LIVE (Let’s Involve the Victim’s Experience) programme was started in 1999 in response to needs expressed by victims/survivors. Its purpose is to bring together victims/survivors from all communities involved in the conflict to share experiences, and also to foster dialogue between victims/survivors and ex-combatants. The format for these dialogues is a residential weekend, mostly at Glencree, near Dublin. Thirty-seven such workshops took place between 1999 and 2003, each attended by 10–40 participants. The workshops have three stages:

1. Single-identity sessions for victims/survivors (e.g. Unionists on their own).
2. Dual- and multiple-identity sessions for victims/survivors (e.g. Unionist and Nationalist victims).

The aim is to start with sharing experiences and move on to dialoguing across boundaries and maybe achieving reconciliation. By the end of 2002, a total of 110 victims/survivors and 45 ex-combatants had attended, many of the victims/survivors attending regularly. And, as in the Healing of Memories project, the categories often overlap. Most participants have made progress in their healing, and cross-community contacts and friendships between them blossomed. Bringing together victims/survivors and ex-combatants has been a much slower process, but even partial apologies, expressions of regret and joint sharing of experiences has helped participants to move on, and
the dialogue has led to increased understanding. Some examples of comments from participants follow.

**Case study: Glencree – workshops for victims and ex-combatants**

One man, after meeting victims/survivors from the other communities, said: ‘Where I once felt bitterness and hatred I have found an inner peace and tolerance towards those I saw as the enemy. I have learned to see another side to beliefs I once had.’

A Republican participant commented:

> I was very surprised to find how little I really knew about the other side. I listened to what Unionists said to me about their feelings and fears for their future, and I have now got a better understanding where they are coming from. I somehow got very friendly with people who, prior to coming here, I would have called my enemy.

(White 2003; De Vries and De Paor 2005)

**Healing Through Remembering Project**

The Healing Through Remembering Project started with a visit in 1999 from Alex Boraine, the deputy chair of the Truth and Reconciliation Commission in South Africa, to see what lessons could be transferred from South Africa to Northern Ireland. The project was launched in October 2001. Its vision was:

> An acknowledgement of the events connected with the conflict in and about Northern Ireland, and in so doing, individually and collectively to have contributed to an understanding of, and the healing of, the wounds of society. (Healing Through Remembering Project 2002)

It undertook a range of in-depth discussions with organisations, communities, politicians and individuals on the issues of truth-telling and healing. One hundred and eight submissions were received, proposing 14 different forms of remembering process, including storytelling, memorials, museums, exhibitions, public commemorations, truth recovery processes, intercommunity work, support for victims, self-examinations and apologies.

The project board recommended the following ways forward:

- network of commemoration and remembering projects
- collective storytelling and archiving process
- day of reflection
- acknowledgement, leading to the exploration of the possibility of truth recovery
- permanent living memorial museum.

In practice, these items are all linked.
The Balkans
Serbia: State initiatives

It was not possible to follow the South African route in Serbia because the victimisation issues were not so clear. The international community regarded Serbia as the main perpetrator and subjected it to economic sanctions for nine years because of the role Serbia had in the war in former Yugoslavia. After the end of the Milosevic regime in 2000, Serbia was again subjected to economic sanctions (but much more sporadically), mostly by the US, because of its non-cooperation with the International Criminal Tribunal for former Yugoslavia. However, most Serbs regarded themselves as victims – of the NATO bombing in 1999; of Milosevic’s government in many cases; of unemployment and economic sanctions; of ethnic cleansing from Croatia, Bosnia and Herzegovina and Kosovo (there were over 700,000 refugees and internally displaced people in Serbia in 1999 – the highest number of refugees in any one country in Europe). Also there were many other conflicts between different groups of people, so that it was difficult to work out a viable process. Moreover many undiscovered war criminals were involved in government and state institutions, making it difficult to obtain the truth (Nikolic-Ristanovic 2006).

In March 2001 Vojislav Kostunica, then president of the Federal Republic of Yugoslavia (FRY), set up a Truth and Reconciliation Commission to run for three years, to investigate war crimes committed against Serbs in Slovenia, Croatia, Bosnia and Herzegovina and Kosovo over the previous decade. Its main tasks were:

- research work on records leading up to the war
- informing the public about its work
- cooperation with similar commissions and bodies in neighbouring and other countries.

However, the Commission was set up without serious public discussion or consensus about its work. It was left to determine its own programme, but this did not happen. The Commission ceased to exist when the FRY became Serbia and Montenegro¹ in 2003.

Balkans: Civil society initiatives

Regional civil society initiatives did far more. A survey undertaken by Milenkovic for Quaker Peace and Social Witness (QPSW) (Blagojevic and Milenkovic 2004) identified 62 non-governmental organisations (NGOs) engaged in activities in the Balkans related to ‘Dealing with the Past’. (QPSW is one of the few organisations working regionally across the Balkans.) These activities included collecting documentation, research, education, culture and art (films, exhibitions, etc.), assistance to victims and ex-combatants, advocacy, debates, small group discussions, conferences and publications. However, the

¹ Montenegro became independent of Serbia in 2006.
Three conferences were held in Belgrade:

- ‘Truth, Reconciliation and Responsibility’ in 2001
- ‘Which Model of Truth and Reconciliation is the Most Appropriate for the Former Yugoslavia?’ in 2002
- ‘Truth and Reconciliation in the Former Yugoslavia: Where Are We Now and Where to Go?’ in 2004.

The first one was organised by B92, a well-known radio and TV station, which had an important role in the struggle against Milosevic. More recently, B92 has produced programmes about war crimes and dealing with the past, including the Milosevic trial. The last two conferences were organised by the Victimology Society of Serbia.

Between the last two conferences, the Victimology Society worked on a project ‘From Remembering the Past towards a Positive Future: What Type of Truth and Trust/Reconciliation is the Most Suitable for Serbia?’, based on the 2002 conference and the experiences of the Northern Ireland project ‘Healing Through Remembering’ (see above). The main part of this project was a series of small group discussions during 2003 and 2004 in 12 towns in Serbia. One hundred and forty-nine people took part, including members of NGOs, refugees, ex-combatants, displaced people from Kosovo, professional people, students, unemployed people, members of political parties and representatives of local authorities. Their ideas were collected in a book (Nikolic-Ristanovic and Hanak 2004).

The Victimology Society has been promoting a ‘third way’ towards truth and reconciliation in Serbia, taking into consideration all victims, all perpetrators and all crimes, regardless of their ethnic origin and other features. In order to work towards further development of these ideas and cooperation of different segments of Serbian society, the Victimology Society initiated the Association for Truth and Reconciliation, in June 2005, with more than 20 NGOs and individuals.

Following its survey report, Quaker Peace and Social Witness is continuing its work on ‘Dealing with the Past’. It has three workers, one based in Serbia, one in Croatia and one in Bosnia and Herzegovina. A main project is to bring together young people on a regional basis; that is, Croatia, Bosnia and Herzegovina, Serbia and Montenegro. QPSW has run many training events, including four for young people from the whole region, to build friendships and reduce mistrust, fear and hatred (Bubalo 2005). The example below shows a cautious positive result of these workshops:
Case study: Balkans – young Bosniak and Serb meet and work together

A ten-year-old boy, Almir, who escaped the massacre at Srebrenica in 1995 (in which about 10,000 Muslim men and boys were killed) by walking through the forests for seven or eight nights to reach safety, later became a student of history in Tuzla. He attended the first QPSW Regional Youth Event in Bosnia and Herzegovina in 2004, even though he was worried at the prospect of meeting Serbs there. He continued to attend further QPSW events. Another participant was Cedomir, a young Serb from central Bosnia, now living in Bratunac in Republic Srpska in eastern Bosnia and Herzegovina. Talking in the group at the end of the November 2005 event, Almir and Cedomir decided to work together with young people from those two places – with young Serbs from Bratunac and with young Bosniaks from Srebrenica. They had become friends and developed enough mutual trust and confidence to work together in these fragile communities, still recovering from the violence of the recent past. QPSW agreed to support them in practical steps to help this communication to take place between young people of very polarised communities.

(Trifunovic 2005)

Videoletters Project

The Videoletters Project was started in 1999 by a Dutch couple, Katarina Rejger and Eric van den Broek, film-makers who had already made several films about the Balkans crisis. Through the war there, many people lost touch with each other, and communication and travel between the resulting small countries has been difficult and sometimes even impossible. Before the war these people were friends, neighbours or colleagues, although from different ethnicities. The directors invited some of them to record a video message for a lost friend. The question uppermost in everyone’s mind was ‘Why didn’t you phone me any more?’ The directors tried to trace the friend and showed them the message, then invited them to respond to the questions, and send a video back. For many people the whole idea was still difficult and dangerous, as some families and communities deeply disapproved of any such contact. The exchange of videos often went on to result in the first meeting between friends after a ten-year gap (Rejger and van den Broek 2005).

Twenty films of this process were made, and, in 2005, 14 of them were shown on television in the countries that used to make up Yugoslavia – Slovenia, Croatia, Bosnia and Herzegovina, Serbia and Montenegro, Macedonia and the still-disputed territory of Kosovo. There is also a website where people can register their interest and post information about themselves (Riding 2005).

The project demonstrates that the concept of the ‘enemy’ produced by the war can be overcome, and reconciliation is possible, because, after all, ‘people are still people’.

Overleaf are two examples of the films in the series.
Case studies: Videoletters films

Emil and Saša

The introduction in the brochure says...

Emil and Saša are growing up in Pale, in Bosnia and Herzegovina. During their childhood they are inseparable. If you are looking for Emil, you will also find Saša. If you call out for Saša, Emil will come along too. Later on, during school hours, they drink coffee in secret in Sarajevo, just like grown-ups do. They call themselves Yugoslavs.

The war changes their world instantly. Saša has to join the army: his father is Serbian. Emil has to flee: his father is Muslim. Where Saša is, Emil cannot stay; where Emil goes, Saša is not welcome. They never speak to each other again.

Ten years later, in his videoletter to Saša, Emil explains why: ‘I never called you because you did something horrible during the war, so I heard.’

The film shows...

…Saša trying to verbalise, with difficulty, his thoughts and feelings about what has happened, guessing what Emil might be thinking, trying to dispel misconceptions about what he had actually done. Then it shows Emil, in the Netherlands, responding to Emil’s videoletter, saying why he never called, and asking questions about what he has heard on the grapevine. The film finishes by showing them meeting up for the first time in ten years, to continue the conversation.

Vlada and Ivica

The introduction in the brochure says...

Vlada lives in Belgrade, Ivica near Zagreb. Their fathers are colleagues, their mothers are friends. They all spend their summers together by the sea. When war breaks out in Croatia, Ivica’s mother calls Vlada’s mother in Belgrade: ‘Grenades are exploding, houses are burning, there is a Serbian sniper across the street.’ Vlada’s mother cannot believe her ears. Later Vlada’s father writes to Ivica: ‘I am certain your wife was telling the truth. I am ashamed of what my people did to you.’ But there is no reply.

Maybe they have grown to hate Serbs, even us, thinks Vlada. Maybe they have never received the letter, comforts his grandmother. As long as you don’t call them, you don’t risk that they hang up on you, says his sister. Then Vlada comes to a decision...

The film shows...

…the Serbian family speaking about their hurt that their former friends have not contacted them. They assume that the reason is that, as Croats, they hate all Serbs now. Then it shows the Croatian family watching the videoletter, the children of ten years ago now young adults – and all of them beginning to cry. They respond with their story of why they felt unable to make contact – they didn’t want to contact the Serb family out of love, for fear that something would happen to them if someone found out they were still friends with Croats. They finish by saying, ‘We never blamed you for what happened.’ When the Serbian family see this video, they too cry, because everything is completely
the other way round from what they assumed. The film finishes by showing the two families arriving in their cars at a meeting place and walking towards each other.

(Rejger and van den Broek 2005)

Mixing retributive and restorative approaches
To a certain extent, most countries use a mixture of approaches, as we have seen. Even South Africa uses courts for those who did not avail themselves of the opportunities of the TRC. Many countries use the court system (national or international) for the ‘big fry’ even when they use restorative processes for the ‘small fry’ (as in Rwanda). However, there needs to be a clear distinction between the two systems, otherwise people will not engage with restorative processes.

Sierra Leone
In Sierra Leone, a Truth and Reconciliation Commission was set up in 2000 after an 11-year war (1988–99). It started taking statements in April 2003. Unfortunately, because of delays, the Special Court for Sierra Leone was still prosecuting those with the greatest responsibility for war crimes and crimes against humanity. This meant that many ex-combatants refused to testify to the TRC, for fear that this would lead on to court prosecution. Victims also found it hard to come forward for fear of reprisals from ex-combatants. Another factor in Sierra Leone was that there was little public support for a TRC, as most ordinary people preferred a ‘forgive and forget’ approach; there were time-honoured rituals of ‘social forgetting’, practised over four centuries of dealing with the aftermath of the slave trade. These rituals included church ceremonies of consecrated water, confessions, prayers and small offerings by and for returning ex-combatants, to transform their identity from that of a fighter to one having a ‘cool heart’. Public talk of memories was seen as likely to inflame the situation. The important thing was to enable people to get on with their lives peacefully (Shaw 2005).

Factors leading to successful Truth and Reconciliation Commissions
For Truth and Reconciliation Commissions to be successful, several things have to be in place:

• the political will of the country’s leaders
• acceptance of the process by the military forces
• adequate funding
• the support of ordinary people
• a match between the methods adopted and the ways the culture processes trauma
• confidence among the population that it is safe to tell the truth.

(Hird 1997)
Truth and Reconciliation Commissions and restorative justice

Writers on conflict transformation have listed the factors needed to repair the psychological and social fabric after violence on a large scale, to deal with the past:

- knowing and acknowledgement
- apology
- reparation
- compensation
- bringing perpetrators to justice
- rituals
- recovery from trauma
- (re)integration of refugees/displaced people
- community relations work
- role of education and the media
- maintenance of security
- establishing participatory politics.

(Francis 2000)

Many of these values are similar to those of restorative justice.

Geoffrey Corry suggests four principles for living alongside former enemies in peaceful co-existence, truth, justice, forgiveness and healing, and suggests ways of achieving these:

- Inclusive remembrance: all the faces of the conflict.
- Recovering the stories and truth-telling.
- Repairing the relationship and the harm done – an interpersonal process.
- Amnesty or impunity for past human rights violations.

(Corry 2005)

Andrew Rigby puts forward a similar set of three values as the conditions for reconciliation:

- peace/security
- truth
- justice.

Some of these are not easy to achieve at the same time. Most state-based efforts prioritise one of them: a general amnesty for the sake of peace, or prosecutions for the sake of
justice, or truth commissions for the sake of truth. Trying to combine these can be diffi-
cult (Rigby 2005).

Most of the TRCs discussed are restorative to the extent that they try to restore
victims in several ways: by providing support, by use of rituals, by providing symbolic
reparation, by involving the community. However, tangible reparation and compensa-
tion are hard to deliver in recovering war-torn countries, because of the endemic
poverty, often exacerbated by the wars; international contributions can help with
rebuilding institutions but not usually with individual reparation and compensation.
Only a few schemes are restorative in the sense that they involve the perpetrators in
taking responsibility for their actions, apologising and contributing towards repairing
the harm. Those schemes that have achieved this have managed to provide something
extra for the victims and for the community – and for the perpetrators too.

Summary
This chapter has looked at the different ways adopted to deal with large-scale interna-
tional violence and gross human rights violations. The advantages and drawbacks of a
retributive court-based system are considered. Truth Commissions are described, espe-
cially the South African TRC. An account follows of the Rwanda Gacaca informal
village courts system. Healing measures for East Timor, some countries in Latin America,
Northern Ireland and the Balkans are described. Finally the relationship of TRCs to
restorative justice is evaluated.

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CHAPTER 16

Arts Approaches to Restorative Justice

Introduction
This chapter is included partly because the subject it describes is a particular interest of mine, and partly because arts approaches to restorative justice have a powerful effect, especially in working with the emotions involved in restorative justice. The projects and methods described are those I have knowledge of, and do not represent the whole picture. Some arts approaches have already been described in previous chapters (e.g. the shields in Chapter 12, p.313–4). This chapter also explores arts aspects of some projects described in other chapters.

Most of the chapter is concerned with individual restorative approaches using the arts, but there is also a section at the end concerning arts approaches to healing some of the situations of large-scale violence or oppression described in Chapter 15. Apart from the last section, this chapter is organised according to art form – drama, art and music.

Some of the examples are fully restorative, in showing the use of the arts in making amends directly to victims. Other examples show the arts in community reparation. There are also examples of arts work that restores victims, especially after large-scale violence, when the perpetrators are often not found.

DRAMA APPROACHES

Theatre plays
There is a rich history of theatre being used to portray conflicts on stage, to enable the audience to empathise with the characters and issues. With the rise in interest in restorative justice, there have been several attempts to portray these issues through plays. One example is The Jack Manning Trilogy by David Williamson (2002). This book of three plays is the result of collaboration between the author and Transformative Justice Australia (TJA). Each play consists of a single restorative conference, in which all the actors are on stage all the time. Using different scenarios (criminal damage to a car, rape and murder, workplace bullying), they show how conferencing works to resolve conflict. The facilitator, Jack Manning, provides the common thread between the three plays. The author writes in his preface:
At a time when talk of vengeance and retribution saturates our media, it’s instructive to watch a community conference in action. Negative emotions can be transformed into positive ones. And not just fleetingly. The long-term outcomes are usually very good. A play or plays which depicted a typical conference and its outcome, I felt, might not only be effective drama, but could also bring attention to a process I believed in. (p.x)

**Drama interludes in conferences**

**Conference on restorative justice**

In recent years many conferences and seminars on restorative justice have used theatre groups to illustrate the potential of restorative justice. Often this is done by including short interludes of drama throughout the day between the other sessions – this helps to provide a shift of energy in the conference, and also enables different stages of restorative processes to be shown. The example below comes from a Sacro (Safeguarding Communities, Reducing Offending) conference in Scotland in 2005 (Sacro 2005).

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**Case study: Drama – robbery at knifepoint**

*Sacro invited Unlimited (a creative training consultancy specialising in interactive theatre techniques) to provide a dramatic input to their 2005 conference, ‘Restorative Justice – An Idea Whose Time Has Come’. The main focus of the event was to raise the profile and increase awareness of restorative justice. This is the account of how Unlimited developed the scenarios.*

The first step involved us in conducting a great deal of research. We interviewed a wide variety of people including social workers, prison officers, victims involved in restorative justice and the police. From this we created the characters and their backgrounds as follows:

- Jackie, mother of two, was caught in the ‘loan shark trap’ with a boyfriend who enjoyed gambling and drinking.
- Irene, also a mother of two, ran the local chip shop with her husband.

Jackie attempted to steal the Saturday night earnings from Irene at knifepoint, and was caught.

At the conference, the original scene introduced the characters before the crime had occurred. We decided to deliver this as two monologues which cut between the characters. This aimed to heighten empathy for both the characters – the audience could clearly understand Jackie’s motivation and also felt desperate for Irene as they realised Jackie’s plan. This was immediately followed by informing the audience, out of role, that Jackie had been apprehended and had spent the night in the cells. We then ‘hot-seated’ each character in turn. Both Jackie and Irene were asked questions on their thoughts and feelings immediately after the crime. This highlighted Jackie’s inability to see the situation from Irene’s perspective and showed how Irene’s life had been shattered. Both women were in a desperate situation.
The audience was informed that Jackie had been given a prison sentence and was then asked to consider whether this case was suitable for restorative justice. After discussion, the majority of conference participants felt that it was.

We then leapt forward in time by eight months, when Jackie was about to be released from prison. Each character delivered a monologue, voicing her thoughts and feelings. Jackie was apprehensive, happy at the thought of seeing her children but scared of the loan shark and her increased financial problems. She continued to show little remorse or understanding of how Irene might have coped with the incident. Irene had found it difficult to bring her life back to normal; her relationship with her family had changed. She was now terrified at the prospect of Jackie’s release.

The audience was asked to consider the question, ‘How well has the criminal justice system served society?’ The characters’ final monologues aimed to show the lack of resolution for both victim and offender. Without some sort of dialogue between both parties, the offender does not take real responsibility for the crime and the victim remains a victim, allowing the incident to affect every area of his or her life.

Later in the conference, we had the opportunity to show the alternative ending. We brought Irene and Jackie to a face-to-face restorative meeting. The audience was asked to assume that Irene had approached Sacro because she felt dissatisfied with the outcome at court. Even though Jackie had been imprisoned, Irene was unable to move on; she wanted an answer to her question – ‘Why me?’ She wanted Jackie to be aware of the impact of the crime. The women received several one-to-one interviews with a restorative justice facilitator to prepare them for the meeting.

In the time available we showed an abbreviated form of the meeting, working with a Sacro restorative justice facilitator. The process showed the key moments of apology, forgiveness, the development of understanding and a growth of inner strength in both Irene and Jackie. The restorative justice process appeared to have been effective for both women. The final questions to the audience were, ‘Bearing this in mind, need Jackie have served time inside? Could justice have been done without a prison sentence?’ The response from a diverse audience indicated the apparent value of restorative justice for both victim and offender.

This input at the conference worked because we made the situation real, and allowed the audience to engage with the characters on an emotional level. This in turn created a meaningful debate – as far as time permitted – in which people felt motivated to discuss the impact of restorative justice.

Young people perform drama at a conference
Another example shows how young people can be involved in this kind of drama activity:

**Case study: Drama – young people and assault**

At a restorative justice conference in Northern Ireland in 2004 (‘Restorative Justice: Opportunities and Challenges for the Next Decade’), four short drama performances
were provided by the Rainbow Factory, a youth drama group, starting with the enactment of an assault on a young person and the resulting changes in the victim. In the next session the group went on to illustrate restorative justice with different cases (taken from Roger Graef’s (2001) book Why Restorative Justice?). The third session enacted a restorative conference for the assault of the first scene. In the final session they spoke of their own experiences preparing the drama, and invited questions from the audience.

(Restorative Justice Working Group Northern Ireland 2004)

Taking plays into prisons
Drama is also an obvious method to use with offenders, as it provides an interactive means of exploring crimes and their effects on people, both offenders and victims. There is an established history of drama projects going into prisons with plays about crime and how offenders can live their lives in a different way, but it is only recently that some theatre groups have included restorative approaches, and involved victims as well as offenders in the scenarios.

Bristol Prison Project
As part of the Bristol Prison Restorative Justice Project in 2002 (see Chapter 9, pp.206–7), Theatre ADAD performed a play and ran a discussion group with prisoners on two wings. This is the story of their performance on the drugs wing:

Case study: Drama in prison – burglary (1)

The company of four actors from Theatre ADAD set up their cardboard boxes to look like a big wall and arranged the prison chairs in a semi-circle for the audience. Soon the prisoners filed in and sat down, some curious and some looking bored and fed up. But as soon as the actors started, they were riveted; it seemed like real life as they knew it.

First there was a burglary, a ‘quick in and out’ job, take the valuables, too bad about the clock that got crushed underfoot. They were disturbed by someone coming home, a big bloke; they had to push their way past him. They dealt him a hefty blow and got away – but they were seen and caught soon after, and sent to prison.

Then there were the interviews carried out by the mediators – first with the victim, a woman who told of the trauma of the burglary and the assault on her autistic brother – then with one of the offenders, who was unaware of the harm he had caused. The actors rearranged the space for the mediation session which brought the two together, and you could have heard a pin drop as the victim spoke and the offender realised the enormity of it all.

The short play ended there, but the work had only just begun: the actors asked the audience some tough questions – what happened to the characters in the play? Did they stay the same or change? How did they change? What made a difference? And when prisoners had queries, they could ask particular actors to go back into role to answer them. Finally the actors brought members of the audience on to the makeshift stage to do their
own role play, acting as mediators as well as in the roles. The atmosphere was electric as the session finished.

As the prisoners left the room, it was easy to see they had been affected. But for one prisoner, Mark, it went further.

(Liebmann and Partington 2002, pp.39–40)

Case study: Drama in prison – burglary (2)

As a result of the drama work described above, Mark decided to own up to more burglaries and asked to contact the police to take them to his house to recover things he had stolen. He also showed them houses he had taken them from.

Mark had also been very moved by a talk on the same day from Marian Partington, whose sister Lucy was one of the Wests’ victims. Marian was involved in the restorative justice project, talking about her experience as a victim (see also Chapter 13, pp.329–30).

Mark wrote to Marian about his big decision:

Dear Marian

I would like to say thank you for coming to Horfield Prison [the local name for Bristol Prison] to talk to us about how victims of crime feel. It made me look deep into my heart what effect my drug problem was having on people, mostly the victims.

I used to look upon the houses I broke into as just another house. But just something simple like the actors and the play opened my eyes. I started putting faces to my crimes which had a big impact on me. Women and children, I had taken away their sense of security.

Plus little things that seem worthless to me might mean the world to the victims.

I contacted the police. They took me out today to my flat in Bristol where I showed them stolen items and little things that might mean a lot to my victims. I gathered all the things together, then asked them to take me out in the car where I showed them the houses I burgled, so the property could be returned.

I shocked myself doing this, as the police could not prove beforehand it was stolen.

I’m in a bit more trouble now but it’s worth it, to know some people have got their things back. I told the police to say I was sorry. I know it will not change a lot, but it’s a big change for me.

I’m not sure what else to say right now.

But what I will say is I know you’re a big victim of crime which left you without a sister. You’re a very brave woman coming into prison talking to us. You have made me rethink which path in life I should take. You have also made me realise that drugs and crime do not just scar me, but my victims as well. This chain needs to be broken.

Thank you.

Yours,

Mark

I’ve put a poem with this letter. I hope you like it:
End to beginning [some excerpts]

Morning dew to evening sun
Winter days to summer trees
Withered plants to honey bees
Old to new
Broken lives to unfulfilled dreams
Deserted lands to glaciers of snow
Light of truth
Sands of time start to flow
Faded promises, distant dreams
Darkened soul becomes
Heart so bright
Time to forgive, the broken
Child begins to fight

Mark and Marian corresponded for several months. Mark moved prisons, and was disappointed to find that the support he needed on his new journey was not available there. Marian visited him once, and then lost touch with Mark.

After a long gap, Mark wrote again to Marian:

I'm so sorry not to have been in touch for a long time, my journey has been a tough one but I’m off that long rocky road at last. I’ve been out of prison over a year now and I’m doing well. I’m clean from the drugs. I’m chasing after my dreams and achieving my goals that I set up two years ago, better late than never though. I’m starting college in a few months. I’m doing a few courses at the moment, part-time work as well.

To be honest, my life has never been this good. I now feel part of the human race at last. I’ve managed to rebuild relationships with my family and close friends. I want to thank you again for the strength and support you gave me when I was doing my three years in prison. You helped me find something so great, deep within my soul. It has helped me so much, even today as I speak.

This story shows the power of drama and story to reach people’s emotions in such a way as to be a catalyst for change. It also had a big effect on prison staff – the story went round the prison like wildfire, as it was most unusual for a prisoner to voluntarily own up to further crimes.

Role play

One of the most commonly used forms of drama is role play, which helps participants to feel their way into other people’s situations in a much deeper way than just by listening to their story. Many Victim Awareness programmes use role play in this way, particularly ‘role reversal’, in which offenders play the roles of victims.
The first victim–offender group (for burglars and burglary victims) in Rochester Youth Custody Centre, already described in Chapter 9, pp.215–16, used role play in this way:

**Case study: Role play in Young Offender Institution**

During the first session, victims described their reactions and feelings about being burgled, to give offenders some understanding of their distress. The offenders then had to accept the responsibility for their crimes and the effects it had on such victims. In the second and third sessions participants were asked to enact a mediation/reparation meeting where a victim and his own offender tried to agree a reparation contract; they were then asked to reverse roles, which was difficult for them. They acted as a team to help when difficulties arose, and this helped to cement relationships between all the participants.

**Case study: Role play in adult prison**

In the Bristol Prison Victim Impact Group (see Chapter 9, pp.206–7), role play had a key place in two out of the three sessions with these exercises, both involving role reversal:

- **Group exercise:** The group of offenders is asked to create an imaginary offender – name, personal characteristics, family members, where he lives and works, the crime he committed. This can be done on a flipchart or a blank cardboard cut-out. Then the group identifies all the people affected by his offending – direct victim, parents/carers, partner/spouse, siblings, wider family, friends, work colleagues, neighbours. One of the facilitators plays the role of the offender, while group members play the victim roles and tell the offender how they have been affected.

- **My Crime – My Victim(s):** Participants work in pairs, A and B. First B briefs A about the crime he committed, and how he felt during and after it. He gives A enough information for A to play the role of B as offender. Then B plays the role of his own victim, talking to A about how they felt when they were victimised, how they feel now, how the crime affected them, and any needs they still have. Finally B (role playing victim) is asked if there is anything he can do to help the victim. Then they swap roles and redo the whole exercise.

(Liebmann and Wootton 2003)

**Youth Offending Team Reparation Projects: Theatre and video**

**Theatre**

A case study in Chapter 3, p.60, has shown how helping a children’s theatre group provided a positive community placement for a young person with an interest in drama whose offence (going equipped) did not have a direct victim. Projects like these can put
something back into the community, while also introducing young people to positive pursuits where their talents are valued.

**Video**

A few Youth Offending Teams have used making a video as a means of reparation. These can often be relevant to the crime and be given to the victim or to a voluntary organisation which helps victims of such crimes. They also help young people reflect on their crime and its effects on other people.

Maxine Lawrence, reparation supervisor (creative arts) in Exeter, East and Mid Devon YOT, writes about the process:

The topic of the video has always been something suggested by the Youth Offender Panel and the young person has usually expressed an interest in making a video. When I meet them, I talk to them about what makes a good video, which is more or less what makes a good story, and the importance of having a clear beginning, middle and end. I try to encourage them to be realistic, given our limited time and resources, and get them to come up with a clear plan of what needs to be filmed to tell the story. This can be in the form of a ‘story board’ or a written list.

I always let them play with the camera, even if they are going to be in front of the camera rather than behind it – this is important to get the feel of it. They gain confidence, usually enjoy the technology and then the material they come up with gives us chance to discuss things like framing, whether to use a tripod or not, and those kind of technicalities. Once the plan is established, I usually then just act as their assistant, asking them what they want me to do and how they want me to do it. If they are unsure I give them options to choose from. I try to give them as much ownership over the work as I can.

After the filming is done, I arrange editing time, at a local college or a young people’s project. These are venues with other young people around and technical backup when I need it. They enjoy seeing the process of editing even if they do not have the confidence to do it themselves. I try to teach them the basic principles and encourage them to at least have a go. It can be really time-consuming and fraught with frustration and technical problems, but they enjoy watching their story take shape.

When it’s finally finished we get together their family, YOT officers and maybe panel members and have a showing with a projector on a large screen and popcorn etc. It usually takes a couple of weeks to arrange and I think this breathing space is good after any creative work, as it gives us all time to digest the process and get some perspective. The creative/emotional content of the work then comes to the fore. The opportunity to tell their own story in this creative way is much needed – and can also be useful to others. (Lawrence 2006)
Case study: Video for Headway

Luke (aged 17) had ‘taken without consent’ (TWOC) his grandfather’s van, and had smashed into another vehicle. Fortunately no one was hurt. Luke was charged with dangerous driving. He was given a Referral Order. At the panel meeting he said he was doing a film and video course at college, and wanted to use his skills to make amends, in addition to paying back his grandfather and compensation to the other car owner.

The YOT had built up a good relationship with Headway, the acquired brain injury charity, and regularly take young people who have committed serious car crimes or assaults to visit its day centre to meet people who have suffered head injuries. The young people meet clients who have recovered and hear their personal stories and some factual information about head injuries and how fragile the brain and skull really are. Most young people are very moved by the experience, learning how people’s lives have been completely devastated and how they have often taken years to rebuild; victims must learn to talk and walk again, then live with the long-term emotional changes and memory problems.

Luke built up a good rapport with Headway clients and offered to make a film for them. He was deeply moved by the stories he heard from people at Headway, was inspired by the people he met, had genuine affection for them and wanted to tell their story in a way that was honourable and did them justice. He interviewed clients and included information about the centre and the charity. The video took over 30 hours to film and edit. Headway was very pleased and now use the video as a promotion and training tool. It was a pivotal experience for Luke too – he turned away from crime completely.

Case study: Car crime video – ‘September 4, A Day that Changed My Life’

This video was made by Dean, a young man of 17, though only 16 when the offence took place. He received a 12-month Referral Order. Dean really needed to tell his story. He and his family wanted very much to make amends for what had happened, and this was the motivation for the video. It was the full stop at the end of their traumatic journey. They needed to mark the end so that they could get back to their lives. It was really emotional for the YOT worker too, seeing this painful process of Dean facing up to the challenge of re-telling and re-living the traumatic event that had changed him and his life forever.

The video narrative was written by the young man himself, but read by someone else to preserve confidentiality. The camera shows all the scenes that led up to the crime, and the aftermath. A friend of Dean’s had been given a car that had been written off, and a group of them used it to drive it and mess about. As they finished one day, and started to walk home, another group came by, and a boy (whom Dean didn’t know) asked for a ride. Dean put on his seat belt but didn’t notice that Kevin hadn’t done the same. Dean drove around a bit, then the steering locked and he crashed into a huge road digger. His first impulse was to run away, but he saw Kevin bleeding and unconscious in his seat, with the door stuck. Somehow he dragged Kevin out, and others called an ambulance. For weeks
Kevin lay in a coma and Dean spent a lot of time thinking about him – the video pans across a hospital bed.

Dean wanted very much to make amends to Kevin and wrote him a very moving letter of apology. It was delivered by the police as Kevin’s family did not want to meet Dean. Fortunately, Kevin recovered, and later Dean bumped into him with some friends in a shop – the two boys asked each other how they were and spontaneously hugged each other.

Dean showed his video at the final review meeting of his Referral Order. He was proud of it and wanted other car crime offenders to see it, as a warning of what can happen. It has been used in this way in the YOT and shown in youth clubs; also at training sessions for panel members and magistrates.

(Exeter, East and Mid Devon Youth Offending Team 2005)

VISUAL ARTS APPROACHES

Victim impact work

Leicestershire Mediation Services have developed the use of drawings as part of their victim impact work with young offenders through the local Youth Offending Team. They have also used this approach with adult offenders. The programme consists of a five-session package of individual work, of which the first three sessions analyse offences from a victim perspective and the last two concentrate on developing strategies to avoid re-offending and holding a case review. The three ‘victim perspective’ sessions take the client through an offence as experienced by:

1. The actual victim.
2. A ‘significant other’ (of the client, e.g. mother, grandmother).
3. The client as victim.

Each session looks at the victim’s experience before, during and after the offence. At each stage the physical, emotional and cognitive/mental effects are examined.

Many clients have low emotional literacy and find these exercises really difficult. Visual methods can help to overcome this. Some of the techniques used are:

- Selecting images from a set of photographs to show how they think victims might be feeling.
- Asking clients to make an image of their own victim if they can – if not, then an image of a ‘significant other’ as victim.
- Asking clients to imagine a ‘pile of worries’ a victim may have.
- Asking clients to draw the physical effects of their crime on a victim, for example churning stomach, feeling sick, headache.

Drawing pictures helps to make the effects more real than just talking, so that an emotional connection is made.
Although this work is a self-contained package, it can also be part of preparation for restorative meetings with victims, if they wish to be involved (Kirkpatrick 2006; Leicestershire Mediation Services 2005).

**Case studies: Victim impact drawings**

The following short case studies are based on one-to-one work with offenders, who were asked to think of victims on whom their offending had the highest impact.

**Young offender: Burglary of house of elderly widow**

The young offender was referred by the local Youth Offending Service’s Intensive Supervision and Surveillance Team after he had burgled the house of an elderly widow. He drew two pictures of his victim before and after the burglary (see Figures 16.1a and 16.1b). The ‘before’ picture shows an elderly but fit woman with gardening tools, smiling, labelled ‘Active, happy, lively and content’. The ‘after’ picture shows her downcast and immobile in a large armchair, labelled ‘Miserable, slumped, depressed, aged, broken, defeated, exhausted and losing the plot, e.g. clothes… Break-down? Terrorised!’

In a session a week later, the same young offender was asked which emotional state of his victim had stayed with him the most – he said ‘Shit – gutted – and shocked’. He was then asked to draw a symbolic representation of these. Figures 16.2a, 16.2b and 16.2c show his pictures. The first one is a pile of steaming ‘shit’, the second one shows a fish being hooked and gutted, and the third one shows lightning striking an electric pylon.

*Figure 16.1a: Victim – before*
like a bolt from the blue — resulting in a shock. There was further discussion to clarify what these words meant to the client; for example, ‘shit’ to him was a composite of emotions (upset, sad, hopeless and depressed) and physiological states (tired, dirty and sick [nauseous]). He went on to write a potentially restorative letter to his victim, but did not complete a commitment test that workers felt was necessary to proceed with victim contact.

Figure 16.1b: Victim – after

Figure 16.2a: Shit
Figure 16.2b: Gutted

Figure 16.2c: Shocked
Young adult offender: Burglary of small business

The offender was referred by the local Prolific and Priority Offender Unit of the Probation Service, after committing a burglary of a small business. The ‘before’ and ‘after’ pictures are of the manager of the business. The ‘before’ picture shows him in the morning going to work, looking optimistic and cheerful. The ‘after’ picture shows him in the evening after dealing with the aftermath of the burglary – ‘tired, well pissed-off, with worry lines’, with staring eyes and downcast mouth (see Figure 16.3).

The same young adult went on to consider the fact that the business had been repeatedly targeted by burglars and could now be facing closure and bankruptcy. He drew a picture (on a large piece of flipchart paper) of a face in blue marker, ‘screaming’ with anger and pain, and scribbled over with red marker (see Figure 16.4). This work led to an information exchange with the victim, which could lead to a meeting if the victim wished.
All these helped the offenders concerned to empathise more with their victims, and to realise more graphically (literally) the harm they had caused. In some cases this work also led on to communication or meetings between offenders and their victims.

**Working with offenders on their offence**

**Case study: Comic strip – assault**

Figure 16.5 shows a comic strip by a 16-year-old boy who assaulted a girl at a bus stop.

1. Don and a friend at a bus stop (Don on the left).
2. Don going to the shop to buy a drink and a bar of chocolate.
3. Don back in the bus queue with two girls behind him.
4. Don’s friend making suggestive comments about the two girls.
5. The bus comes, with a crowd of people waiting to get on.
6. Don chucks his drinks can on the ground but it goes on the girl’s dress behind him. She is very angry. Don apologises, but she is still angry.
7. Don punches her and she falls backwards.
8. Everyone rushes over to her and Don runs off, now a little stick figure.
9. The bus stops, Don gets on and hides behind a seat in panic, as he hears sirens of ambulances rushing towards the scene.

![Comic strip of offence](image)

*Figure 16.5: Comic strip of offence*

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1 This example appeared in a different format in *Probation Journal* (Liebmann 1991).
Other uses of visual art in working with offenders includes asking them to draw a ‘comic strip’ of the offence and how they came to commit it. This has been discussed in detail elsewhere (Liebmann 1990, 1991, 1994) but is included here to show the potential of visual art to help offenders acknowledge their responsibility and begin to look at the impact of their offence on their victim.

The drawing of such a sequence involves offenders in taking responsibility – they have to draw themselves and what they did. The drawing can then be the focus of discussion about the harm to the victim, and what the offender needs to do to make amends and not to re-offend (see Figure 16.5). At the time this drawing was done, there was no organisational framework to consult the victim; now there would be, and such a drawing might be the first step towards a meeting with her, if she wanted this.

**Art work in reparation to victims**

In some Youth Offending Teams art work by young offenders is one way of making amends. Young people make pictures, posters, mosaics, silk paintings and other items as gifts, either to their actual victims or to a charity. Sometimes they are encouraged to do pictures of their own feelings after committing their offence, to show victims they have thought about things. Sometimes they make things requested by victims, or pictures they think they will like, after meeting them at a Youth Offender Panel, mediation or conference. Sometimes they undertake to make posters warning other young people of the consequences of their particular kind of crime. Photomontages of reparation work on large projects also have visual appeal.

One Youth Offending Team which has made a special feature of this kind of work is Oxfordshire Youth Offending Service, where Clair Aldington has been working for five years as an artist and reparation supervisor, as well as being a trained facilitator of restorative conferences.

During this time she has developed the use of art as a restorative practice, encouraging young offenders to reflect on their experience of crime through therapeutic art work. As part of their reparation, the completed art is given to the victim or the community. Clair says:

> I believe that for reparation to be successful as part of a restorative justice process, it has to be meaningful for the young person as well as for the victim(s) of their offence. There is something powerful about working alongside a young person to develop a skill that enables them to value themselves in a new way and to begin to see the potential for change in their life. When that process is linked with either facing their victim directly or giving the victim the completed artwork through a third party, from my observation this has an even greater impact. (Aldington 2006)
Case studies: Reparation to victims through art

Here are some examples from Oxfordshire Youth Offending Team:

- A silk painting ‘Dances with Silk’ by a girl, donated to a local Breast Screening Unit because her friend’s mother had died of breast cancer.

- A Delft tile given to the victim to say sorry for assaulting her.

- A picture of a motorbike, after stealing a motorbike and finding it belonged to someone with mental health problems, donated to the mental health day centre attended by the victim.

- A painting of a yellow rose for the victim, as the offender had burgled her house and seen the garden, and thought the victim liked flowers. She was delighted.

- A poster warning against drink-driving, after driving her mother’s car after drinking.

- A series of miniature photos after taking a car without consent. The offender took pictures of a car that looked like the one she stole, and added pictures of her feet, hands and face.

- A poster and rap poem about stealing:

  Don’t steal
  Keep it real
  You’re wasting your time
  And crossing the line.
  If you forget things like jewellery and things
  You feel so much better
  And jail stays extinct.

- A rap written and recorded professionally as a means of saying sorry. The finished CD was given to the victim, who was another young person.

  (Aldington 2006; Wallis 2003, 2005)

Overleaf are some examples in detail. In each case the young person was given a specific number of hours of reparation to undertake, as part of a Referral Order, Reparation Order, Action Plan Order or Supervision Order. The art works were all given to the victims or sold at an exhibition in aid of Children in Need.
Asylum seeker: Painting of mother and child

A 17-year-old boy was given 15 hours’ reparation for a theft, threatening behaviour and failing to appear in court. He was a Kosovar Albanian who had come to the UK as a young asylum seeker and was then granted refugee status, as an unaccompanied minor with no family. He had a natural gift for art.

We spent some time initially looking at how he felt about the offences he had committed. The best English words he could find for his feelings were: angry, sorry and sad. He created from his imagination a picture of a mother holding a child (see Figure 16.6). Through the drawings and then the final painting, the mother and child both had black line hatchings across their mouths. When I questioned him about this, he said the lines were there to symbolise that they were not able to speak. That was how he felt with English, unable to communicate as well as he would like to. He also said that the black lines were like prison bars.

Figure 16.6: Mother and child
Photo: Clair Aldington, Oxfordshire Youth Offending Team
Criminal damage: Mosaic as reparation

A young man of 15 received 18 hours’ reparation for offences of criminal damage. Mosaic was chosen as the art form because most of his offences involved smashing and breaking things. At his request, the piece was loaned to the community arts centre where he made the orange mosaic, and later auctioned for Children in Need (see Figure 16.7). He said, ‘The mosaic was made as part of my reparation work with the Youth Offending Team. The design was based on feelings about the offences I’ve committed. The feelings were: frustrated, annoyed, angry and guilty. I expressed these feelings by drawing them as shapes on paper. Then we constructed a collage and mounted it on the wall.’

![Mosaic](Image)

*Figure 16.7: Mosaic
Photo: Clair Aldington, Oxfordshire Youth Offending Team*

Racial tensions: Photograph of hand

Nadim and Manni received Referral Orders for separate assaults on peers. Both incidents happened on the way home from school. All those involved felt that racial tensions between different groups of young people in east Oxford underlay the violence.

Both young men agreed to investigate an inspiring youth mediation project in Slough called Aik Saath† (which means ‘together as one’) as a reparation project. Their task was to evaluate the project and consider scope for something similar in east Oxford. Nadim wrote an excellent report on the project, and his art work featured in an article in the *Oxford Times*, and in an exhibition of young offenders’ art work in Oxford.

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† See Chapter 12, pp.307–8, for a description of Aik Saath.
Both victims and their families were kept informed of the reparation. The mother of Nadim’s victim wrote:

It is very interesting to hear what Nadim is doing – this sounds like a very constructive move, potentially useful hopefully to him personally and also with important local implications for some development. It would be very interesting indeed to hear about the outcome both in terms of Nadim’s take on it and your ideas on how things might subsequently develop in Oxford… It is good to have the sense that one’s needs and opinions are being taken seriously.

After seeing the pictures she said, ‘I got a glimpse of his creativity and artistry.’

One of the pictures was a photograph of a hand with anti-racist slogans which was made into postcards used by the Oxfordshire Youth Offending Team as appointment and compliment slips (see Figure 16.8). Copies were also given to the victim.

*Figure 16.8: Anti-racist hand*  
*Photo: Clair Aldington, Oxfordshire Youth Offending Team*
Burglary of church: Weaving as reparation

A young man of 18 was given 18 hours’ reparation for a burglary of a church. This reparation project stemmed from a restorative conference between the young person and his victims. The reparation hours took place on the church premises. The design of the weaving reflected emotions he felt at the time about his offences and himself. Once he had completed the weaving, he wrote the following about his design (see Figure 16.9):

The strips of colour at the top of the weaving are like traffic lights and are about going from bad (red) to better (amber) to starting again (green). The hole in the middle is about feeling fed up, like being completely blank inside and wanting to give up. The blue oval shape, above the hole, is about feeling alone a lot of the time and the black border around it represents darkness. The downwards-curving line at the bottom of the weaving represents the sadness that I feel. The background of the wall hanging moves from dark to light colours, moving from negative to more positive things. I feel very pleased with the weaving and that I want to try and stay out of trouble.
We presented the weaving directly to the victims. They were delighted with the wall hanging and put it up on their wall. The young person was pleased with the outcome and said that the experience of doing direct reparation was very different from previous reparation he had completed. He stated that it had made a big difference to him having to meet the victims of one of his offences face to face. It was this that had contributed to him feeling that he wanted to move on with his life and stay out of trouble.

Clair then worked with Stephen Fontaine of BBC Oxford to jointly arrange ‘Facing-up’, an art exhibition of young offenders’ art work, hosted by BBC Oxford. Some of the art works had been made specifically as gifts for victims of offences, as above, while others had been created to be auctioned in aid of the BBC Children in Need appeal.

Stephen Fontaine commented:

The BBC showed its dedication to reaching out to pockets of the community when hosting this young offenders’ art exhibition at BBC Oxford’s studio. This event provided opportunities for young people to express their untapped talents and a further understanding of the sociological effects crime and being the victims of crime have on the community. (BBC Oxford 2005)

The whole event was well publicised by BBC South TV and Radio Oxford with a week of output-related stories on young offenders right up to the opening night of the exhibition on 12 November 2005. A young artist being interviewed was bewildered:

This is unreal, why are the BBC interested? We thought that the only time the media’s attention was on us is when we were hanging round on the street and up to no good. Me, my art, has been on TV and radio nearly all this week and raising money for Children in Need! (Fontaine 2006)

Art work in community reparation

Some Youth Offending Teams include art work in projects which benefit the community; these are relevant if there are no personal victims of a crime, or the victim is not interested in any contact. One such project has already been described in Chapter 7, p.148, in which a girl offender made a ‘welcome board’ for a school; making pictures to sell for Children in Need (see above) is another example.

The examples below show a community mural project and the use of a poster with other young offenders.

Case study: Community reparation – mural for adventure playground

Eight young people supervised by Bristol YOT undertook community reparation creating a mural on an adventure playground wall, which had been the target for repeated graffiti. The young people worked with an artist, who asked the children who used the playground if they wanted a theme. They chose one of ‘pirates and sandy beaches’ and
agreed the pencil design, before the mural was painted (see Figure 16.10). The project took place over the school holidays and the young people taking part received an award recognising the skills they had used. There were several good outcomes:

- The mural was respected and not damaged.
- Following the completion of the mural, many more children started to use the playground.
- Local people were extremely pleased with the result.
- The children had a ‘pirates and fairies’ party.
- One young person who had taken part in painting of the mural started helping out at the playground, as he had gained respect from the younger children.
- None of the young people who had created the mural re-offended during the following year.

(Clark 2006)
Case study: A useful poster

I was asked by a YOT colleague to work with a young girl on a poster as part of her reparation. Through discussion, the young girl came up with an idea for a poster that looked at the unhappy circumstance of being arrested. The resulting poster was a true expression of her feelings. It depicted a girl in tears in a cell saying ‘Being arrested is not fun!’ The poster was copied and put up in several places, including the centre used by the YOT to see clients.

Months later I went to fetch art materials and overheard a conversation between my colleague and another client, who said, ‘Why does that say, “Being arrested is not fun!”?’ My colleague responded, ‘Well, what was it like when you were arrested…?’

I realised later that the poster had been of great value on two accounts. First, in creating the poster, the young girl had been able to express some painful emotions about what she felt was a harrowing experience. This in turn had provided the catalyst for another young person to discuss their experience of being arrested, and their feelings about this, with an adult who was able to help them change their future.

Restorative approaches in schools using art

In the example below, the school used a visual arts project to address inequalities of several kinds simultaneously (gender, race, refugees), and, when things went wrong, used restorative means to put right the harm that had been done, and restore the visual project.

Case study: Photography project to address gender, race and refugee issues

A City Academy with a large percentage of children from minority ethnic groups and children of asylum seekers wanted to give them a positive profile in the school. The school undertook a project, ‘50 Films for 50 Females’, for International Women’s Day. The school gave disposable cameras to 40 children and young people aged 12 to 18 who were refugees or asylum seekers, to take pictures of things they felt expressed the richness of life. The school also involved ten women from the local community – they came in to discuss the project with the students in small groups before they went out to take their photos.

The pictures were brought together in a large photographic exhibition in the main public library in the city centre. All the children were very proud of their achievement. It opened up the whole issue of racism, asylum seekers and the media. People looking at the exhibition began to see beyond the labels to view the contributors as children first and foremost.

Soon two of the photos disappeared, of two girls who were Somali asylum seekers. The teachers wondered if they had taken the pictures just to have them, as few of them owned very much. They talked to the two girls and discovered that they had taken down their photos because they felt ashamed and vulnerable as asylum seekers. Meanwhile the rest of the group were very angry with them for destroying their work in this way, and
feelings ran high. The teachers made home visits and talked to the children in small groups, to achieve understanding. They reassured the girls that asylum seekers were welcome here. The outcome was that the girls gave back their pictures so that they could be part of the whole display once more.

MUSIC APPROACHES

Music in reparation to victims and the community

Many young people can be reached through music, and this can be used to make amends to victims or in community reparation projects organised through Youth Offending Teams. The three case studies below show two examples of reparation to victims and one of community reparation.

Case study: Apology rap on CD

The young person concerned was 15 years old at the time and had committed a robbery and assault against another young person who had been a close friend of his.

The young person spent a lot of time writing lyrics in his ‘Book of Rhymes’. As a way of making amends, he decided he would like to write some lyrics about how he felt about the offence. He also wanted to use the lyrics to say sorry for the parts of the offence he felt bad about.

He selected and brought in the beats he wanted to use and wrote the words. He structured the rap to emphasise the message he wanted to communicate, using the chorus of the piece to say sorry. The chorus is repeated throughout the track and divides up the verses which contain more detail and provide a context for the offence.

We had the track recorded on to a CD in a professional music studio at a youth music project. I visited the victim at his home and presented him with the final CD as a way of saying sorry. The victim was very pleased that his former friend had spent such a lot of time (18 hours) making and recording the CD for him.

The rap was entitled ‘December 03’ – here is an extract from the lyrics:

…fed’s approaching me slowly saying ur charged wit robbery an assault one of dem at the door as if am running but my pip’s said just be patient a take him 2 da station 2morrow, a want 2 hear da statement before u lot, so a know wot’s going on…and if u didn’t get it dis iz da story about me as I said d.e.c 03 robbery an assault could have sent me 2 da pen’s u see… I came down the school to chat to u about it but I lost it when u started back chattin but we woz cool bv4 dis what made u change ur mind and start beefin me…

Chorus:

it’s not all ur fault u can blame me 4 half of it I didn’t really mean 2 box u dat hard…
Case study: Song composed by young person

This song was composed by a young man of 17, who had assaulted a peer. He wrote it to make amends, but unfortunately the victim did not want any involvement:

I got in with the wrong crowd
Didn’t know what to do
I saw that innocent young face
My judge of character was totally misplaced
I should have turned my cheek and walked away
And now I’ve changed my way, tomorrow’s another day

Be yourself, stop following the crowds
Listen to your heart, stand tall and proud
I wanna say sorry to that poor young guy
I did something silly and I don’t know why?

Stand on your own 2 feet
Don’t listen to anyone else
Stand on your own 2 feet
It’s about real friends and not who you meet

I’ve tried to put myself in his position
It’s hard, so stop stand and listen
I’ve understood the error of my ways
And like I said, tomorrow’s another day

Case study: Teaching DJ skills

Andrew received a Reparation Order for a minor offence. His great love was music and he undertook community reparation at a youth club, teaching younger people the skills of DJ-ing. He developed quite a skill at this and his Reparation Officer encouraged him to use it when his Reparation Order finished. He did so and five years later was working at a different youth club. The room for DJ skills needed decorating and another group of young offenders took on the task as part of their community reparation. Andrew was really pleased to connect again with his former Reparation Officer and told the young people:

This lady here helped me do my reparation some years ago, and now here you are painting and decorating this room for me so that I can use it. You will all benefit from this and I am very grateful for the work you are doing.

At that moment things seemed to have gone full circle!

Music in conflict resolution

Resolving conflicts is often part of a restorative approach, and music has a special role here. By its very nature, music often requires different instruments and parts to blend
together in harmony to produce something greater than the sum of its parts. It can be used to model this aspect of conflict resolution in a variety of situations:

- Forming mixed groups of children to sing or play music together, in situations of conflict – for example, Protestant and Catholic children in Belfast (Boyce-Tillman 1996).

ARTS APPROACHES AFTER LARGE-SCALE VIOLENCE

This section looks at the way arts can be used after large-scale violence and oppression. Many of these are healing approaches used to help victims deal with their losses, and do not involve perpetrators, but a few manage to bring people together from opposing sides for dialogue.

**Visual art in Healing of Memories workshops**

As mentioned in Chapter 15, the Healing of Memories workshops in South Africa and Northern Ireland include visual arts as part of their process. These workshops are now also run in prisons in other parts of the UK.

- After the introductory evening at the start of the weekend workshop, the following morning starts with an art exercise which people do on their own, taking a bit more than an hour, with time for reflection and gathering materials. They are asked to use simple art materials (crayons, felt-tip pens, paints and beads) to draw a ‘life-line’ of important events up to the present, without using words, including such things as their first childhood memory, people who influenced them (positively or negatively) – family, teachers, church, community leaders – particular situations they remember, and so on. Participants are often surprised at the emotions that come up for them in the process of doing this – it is a way of accessing memories that goes beyond words. Seeing their life visually is usually a new experience for them. The resulting pictures are used as the basis for telling their stories in the afternoon session.

- On the final morning of the weekend, participants are asked to use clay and natural objects outside to make something positive or an object that is important to them (e.g. a tree, a safe place, etc.). They are creating something positive out of nothing. After an hour or a bit more, people bring their objects to a closing circle. They describe their work and place it in the centre, sometimes lighting a candle. The weekend finishes with some time for quiet reflection in the group, possibly accompanied by appropriate music.

In this way visual arts are used to access thoughts, memories and feelings often unavailable in words, and help people to process them, both individually and as part of a group. A few quotations from participants exemplify this:
Drawing the life map felt good – it was like having a new direction. I wasn’t expecting this.

(Life-sentence prisoner in English prison)

It’s the first time I’ve had the chance to put it all down and step back and look at it.

(Institute for Healing of Memories 2005; Little 2005)

Memorial exhibitions

In situations of large-scale violence, nothing can bring back those killed or ‘disappeared’, and there are seldom resources to compensate the bereaved. In these situations memorial exhibitions of photographs and other significant objects can give some comfort to victims, and also help to provide a lasting testimony of what has happened. Often the process of compiling such an exhibition is as important as the result. Here are a few examples:

**Case study: Sri Lanka – photography workshops for women affected by war**

WRI (War Resisters International) held a photography workshop in 2004 in Batticaloa, Sri Lanka, for women affected by the war there. The women came from two villages, where almost every family had lost someone during the war. They were asked to bring objects and/or photos associated with their lost ones, and, after initial sharing and storytelling, were given disposable cameras to photograph their objects. These were developed so that the women could share and discuss them the next day, and take them home with them. They were given a second camera to take photos of their home, community and whatever seemed relevant of their past and present life. Another workshop was organised to gather in these photos and share them. There were many positive comments about the experience, such as:

The photos allow me and us to take back memories and also share them with the family and community, which is very important.

I came with a great burden; it was difficult to start, but I feel I have been able to break the circle of question and answer and feel in peace.

(Bacic 2004)

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2 The Sri Lankan civil war took place mostly between 1983 and 2001, between the government and the Liberation Tigers of Tamil Eelam (LTTE), a rebel organisation which wants to create an independent state in the north-east of the island. Over 65,000 people died and many others suffered greatly. A cease-fire was declared in December 2001 and an agreement was signed through international mediation in 2002. However, hostilities renewed in late 2005 and escalated throughout 2006, although both sides have continued to reaffirm their commitment to the ceasefire agreement.
Case study: ‘Srebrenica Now’ exhibition

The ‘Srebrenica Now’ exhibition took place in 2005 and included photographs from Srebrenica, Bosnia and Herzegovina, ten years on from the genocide. For a few years after the genocide in 1995, only Serbs lived in Srebrenica. Some had lived in the town before the war, but most were refugees from other parts of Bosnia. However, since 2000, a small but growing number of Bosniaks (Bosnian Muslims) started to return to Srebrenica and its surrounding villages. In the ‘Srebrenica Now’ exhibition, both Bosniaks and Serbs took photos of themselves and their surroundings that illustrated their thoughts of the past, present and future. This exhibition was run by the Civil Presence Project, which aims to lessen tension between Bosniaks and Serbs as Srebrenica gradually comes back to life. Practical assistance and joint projects bring different ethnic groups together.

The Civil Presence volunteer, Philippa Harrison, who ran the photographic workshops, also took photographic portraits of participants for them to have, to send to family abroad. One of these shows Hajra in the snow (see Figure 16.11). When the UN troops came to Srebrenica in 1993, Hajra’s husband volunteered as an interpreter. In July 1995, when Serb troops entered the town, he had the opportunity as an international employee to be evacuated to safety – but only if he went without his family. He chose to stay. ‘My daughter and I were the last people to see him before they separated us at Potocari,’ Hajra said. ‘His last words to my daughter were: “Now everything is over.”’ Hajra returned to

Figure 16.11: Hajra in the snow
Photo: Philippa Harrison, Civil Presence Project

3 The Civil Presence Project is a partnership between the Dutch–Bosnian NGO Werkgroep Nederland-Srebrenica, the Srebrenica Justice Campaign and the refugee support group BH Community UK. The exhibition was staged by Bridging Arts, www.bridging-arts.com.
Srebrenica alone in October 2002 and lived without electricity and running water for a year and a half. She was waiting for the remains of her missing husband and father to be identified, but was uncertain whether this would happen. ‘Who knows?’ she said. ‘A lot of mothers will be dead before they find out anything about their sons…’

Despite the desperately sad stories, the fact that people from different backgrounds were able to come together to produce this exhibition gives grounds for some hope for the future.

(Srebrenica Now 2005)

**Case study: Mozambique – Throne of Weapons**

The sculpture ‘Throne of Weapons’ (Figure 16.12) was created from decommissioned guns by the Mozambican artist Kester in 2001. It formed part of the Transforming Arms into Tools project sponsored by Christian Aid. In this project 200,000 weapons were handed in, in exchange for tools. The weapons were given to Mozambican sculptors to re-work into other objects, such as musical instruments and sculptures. An accompanying film, *Swords into Ploughshares*, described another sculpture: a ‘Tree of Life’, a collaboration of four artists, symbolising creativity, life, hope and the future. The project was publicised using community drama.

![Figure 16.12: Throne of Weapons](Photo: Nick Winchester)
Case study: Rwanda – paintings to promote reconciliation

Helen Wilson, a young Black British single mother and artist, living in Bristol, saw the images of Rwanda on TV in 1994. Spurred on by a wish to educate her children about challenging injustice, she researched the story of Rwanda. She felt the only way she could make sense of it was to visit, which she did in 2002. From this came an energetic output of large paintings, designed to promote reconciliation and education in areas of conflict and division. The exhibition has travelled around the UK and was accompanied by a book and a film. Figures 16.13 and 16.14 show two of her paintings.

Helen Wilson wrote about the paintings:

Genocidaires

This painting is based on a still from the feature film 100 Days, directed by Nick Hughes. I saw the still in the East African newspaper I bought when I arrived in Rwanda. The image I have painted sums up the horror I felt when coming back from the genocide sites. The particular act of killing shown in the picture took place in Nyamata Church, where 20,000 people died. The brush strokes and colours (black, dark blue, red and yellow) suggest extreme violence, and I wanted to capture the sheer hell and inhumanity of what went on. I did not witness the genocide, I witnessed its aftermath. However, visiting the church gave me a sense of the wanton destruction of human life. The painting has three elements. Firstly, the madness of...
the violence which we see in the frenzied killing on the left of the picture. We cannot see clearly what is depicted, but we see the machete raised and know that people are being murdered. Secondly, the two figures on the right hand side represent people who watched their families being slaughtered, some of whom had to participate in the killing. The third element is the spectre-like figure in the background, which represents the world watching and knowing what is going on, but choosing to do nothing.

Figure 16.14: From ‘Four Avega Women’, by Helen Wilson

Four Avega Women

To me, this is one of the most powerful paintings in the series. I wanted to paint more of the women I met, all of whom had AIDS and eight years on were still dying. I decided to paint just four of the women, much larger than life. These women live with the memories of watching their loved ones, children and grandchildren being raped and killed in the genocide, and the sense of loss makes it hard for them to go on living. One of the women is looking directly at us from the painting, as if judging the world for standing by and doing nothing to avert the tragedy. The Avega women wanted me to paint their stories as large as I could so the world would not forget.

(Wilson 2003, pp.18, 27)
Case study: Peru – photographic image bank

Peru’s Truth and Reconciliation Commission recognised the importance of the visual legacy, from the tradition of the Yagua people of the Amazon jungle, who first obtain knowledge visually. The TRC investigated almost 80 photographic archives country-wide, to produce an image bank of nearly 1700 photographs. More than 200 were included in an exhibition in Lima in late 2003, and 80 were included in a book, Yuyanapaq. To remember. (Peru Truth and Reconciliation Commission 2003)

Arts approaches bringing opposing sides together

This section gives an example of how drama, art and music can be used to bring people from opposing sides together.

Case study: Talking to terrorists

Talking to Terrorists is the title of a recent play by Robin Soans (2005) approaching these issues. To put this play together, the writer, director (Max Stafford-Clark) and actors interviewed people from around the world who had been affected by or involved in terrorism. They included peace-makers, journalists and hostages. The play interweaves the testimonies of ex-terrorists and former freedom fighters with the victims of terrorist attacks — and of course these categories are not always distinct from each other. The actors slip in and out of different roles, playing characters from London, Belfast, Uganda, Turkey and the Middle East. The play also includes recognisable politicians, such as Mo Mowlam, and well-known charitable figures, such as Terry Waite, along with diplomats, an army expert and a psychologist. It circulates round the exploration of the causes as well as the effects of terrorism. Using theatre provides a more searching yet more bearable way of approaching these issues than is usually possible through the media. The characters engage with each other on stage, showing how dialogue is the only way forward.

Case study: Northern Ireland – community arts for reconciliation

‘Community Arts as a Tool for Reconciliation in Northern Ireland’ is the title of a research project carried out by Sarah Alldred in 2001–2002. She noted that, during the Troubles, music, posters, flags and murals had all been used in a divisive way to play off one community against the other. However, the arts were also used to articulate the personal stories of people living through the Troubles. Some groups concentrated on the arts for their own sake, with drama or music providing a safe space to raise and discuss issues. Generally, community arts were seen to be helpful in community development and raising self-esteem. There were some attempts at cross-community work, but the Protestant community was reluctant to participate in these. However, on a few occasions
this kind of work succeeded where other approaches had failed, as this quote from one of the co-founders of the Community Arts Forum in Belfast shows:

There’s an organisation in Belfast which has been trying for years to get the kids from both ends of one street to do something together, and they didn’t succeed for 20 years until they did a community arts project, and Bang! Bingo! It came together. The kids connected. So there’s where community arts would be the only route through. (Alldred 2003, p.179)

Sarah Alldred concluded that, in Northern Ireland, community arts’ main role had been to help break down fears and stereotypes through their implicit reconciliation agenda.

(Alldred 2003)

**Case study: Orchestra for young Israelis and Arabs**

The West-Eastern Divan Orchestra, named after a cycle of poems by Goethe, was founded by Daniel Barenboim and Edward Said, who met by chance in the early 1990s and became inseparable friends. The orchestra was the fruit of their discussions. Their idea was that the act of making music – which, by its nature, demands harmony and unity of purpose – could be combined with the practical benefit of young players from Israel and Arab countries simply living side by side each summer, learning a little about each other. The orchestra’s summer home is now in Seville and each year the orchestra is made up of about 40 young Israelis and about the same number from Syria, Egypt, Lebanon, Palestine and Jordan, with others from Spain. The orchestra has been a musical success story, with a recording and performances at the Proms and Edinburgh Festival.

In August 2005 the orchestra performed a landmark concert in Ramallah in the West Bank – the orchestra has yet to play in Israel. Kinan Azmeh, the 29-year-old Syrian clarinettist with the orchestra said, ‘It is only the beginning. Playing together doesn’t mean that you have overcome any of the [political] difficulties. It’s very important to keep pushing things. I don’t want us to be thought of as the beautifully peaceful, perfect orchestra.’

All the young Israelis who visited Ramallah with the West-Eastern Divan Orchestra were entering the West Bank for the first time in their lives. ‘Most of us were, naturally, afraid; but in the end we decided to leave our frightened thoughts behind,’ said Ayelet Kabilio, a 25-year-old Israeli violist. Part of the point of the orchestra is that the players are encouraged (though by no means forced) to discuss their lives and the apparently intractable political problems that beset the region. According to 21-year-old violinist Daniel Cohen, the main problem in these discussions is ‘the differences in the way we write our history; finding the narrative of the other side upsetting because you grew up with a different version.’

Nonetheless, when the young musicians were playing Beethoven’s Fifth Symphony in Ramallah, they were completely involved; sometimes even exchanging eye contact and smiles from the sheer joy of it. Edward Said observed before he died, ‘Once they start playing, their personal identities drop away.’
Daniel Barenboim gave the 2006 Reith Lectures, *In the Beginning was Sound*, which took place in London, Chicago, Berlin and Jerusalem (one lecture in the Palestinian quarter, one in the Israeli quarter). In his fourth lecture, in east Jerusalem, on ‘Meeting in Music’, he said:

Of course the West-Eastern Divan Orchestra is not going to bring about peace. What it can do, however, is to bring understanding. It can awaken the curiosity, and then perhaps the courage, to listen to the narrative of the other, and at very least accept its legitimacy. This is the main idea behind this project.

(Barenboim 2006, p.4; Higgins 2005)

Summary

This chapter has given examples of the uses of drama, art and music in restorative work by offenders for victims and for the community. Arts have also been used in victim impact work to enable offenders to become more aware of the harm they have inflicted. The arts manage to engage people emotionally, which in turn leads to greater awareness. The arts can also help victims to heal after large-scale violence, and can bring people together to explore their future.

References


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Postscript: Growing Points

Introduction
Restorative justice has been growing and changing so much over the last few years that it is dangerous to predict where the next growth areas will be. This postscript will highlight some areas where expansion is happening and a few where growth might take place. This is a personal assessment and it will be interesting to see how far these conjectures are fulfilled.

Much depends on government policies that often react to events of the moment. Many governments have moved towards more punitive policies over the last few years, with more and longer prison sentences. Yet, despite this harsher outlook, restorative justice is still included in plans, although often without the initial funding needed (though it could save money elsewhere in the criminal justice system), thus showing only a faint commitment. For instance, a recent UK Home Office White Paper, *Rebalancing the Criminal Justice System in Favour of the Law-abiding Majority* (July 2006), spends most of its 48 pages on enforcement and ‘gripping offenders’ but also states: ‘We will do more across the country to develop restorative justice – where offenders make amends to the victim or the community for the harm they have caused’ (Home Office 2006, p.22). It remains to be seen whether the commitment is there to make this a reality. The Liberal Democrats have also produced a consultation paper on crime in the community, including discussion of restorative justice (Liberal Democrats 2006).

Some of the results from the large research projects on restorative justice with adults (see Chapters 8, 9 and 14) are already available and the rest will be published during 2007. The report by Sherman and Strang in February 2007 provided very positive early results, and suggested that the UK government should set up a new Restorative Justice Board to make restorative justice available in all areas of the country, setting standards and monitoring outcomes (Sherman and Strang 2007, pp.88-90). This could lead to a strengthening of restorative justice work with young people and a renaissance of work with adults. However, even if the research results are good, political considerations may override them. And research often gives rise to as many questions as it answers.

Whatever may happen in the worlds of politics and research, it seems important to chart the existing areas of growth and possible areas of expansion.
**Existing areas of growth**

This book has described several areas where fast growth has been taking place. Geographically this growth has taken place especially in the following regions:

- **The UK, especially in Youth Offending Teams.** Even YOTs which have been slow to embrace the philosophy and practice of restorative justice are beginning to introduce more victim-centred approaches and the possibility of meetings between victims and offenders. The police in many areas have also been taking on board restorative practice. Scotland and Northern Ireland have also been introducing their own restorative systems.

- **Western Europe,** where victim–offender mediation is practised in almost all countries as ‘standard’, especially in their youth justice systems.

- **Central and Eastern Europe,** where many countries have initiated restorative justice projects, often involving legal changes. This expansion has been encouraged by the European Union Council Framework Decision of 2001, especially as Central and Eastern European countries have seen it as part of joining the European Union.

- **New Zealand,** which pioneered early use of Family Group Conferences with young people, and is now introducing new restorative justice legislation for adults, together with plans for a national framework.

In terms of kinds of work, growth has been happening in new areas, such as the following:

- **Victim–offender dialogue work with prisoners and victims in very serious cases,** such as murder. This has been growing rapidly in the US, but there have also been smaller initiatives in other countries.

- **Restorative justice in prisons,** taking in a wide variety of initiatives, including community service, victim impact work, mediation and conferencing. Belgium has the most comprehensive system, but there is considerable interest in the UK and the US.

- **Restorative justice and the arts,** especially in Youth Offending Teams, using the creation of art works as reparation to victims or the community.

- **Initiatives in working with complex and sensitive cases,** such as domestic violence and sexual offences; also gun crime.

- **Schools,** where whole schools and sometimes entire local authorities are introducing restorative justice (often known as ‘RJ’) as a whole-school philosophy and practice.

**Possible areas of expansion**

**Restorative justice in the workplace**

Recent legislation (Employment Act 2002, implemented since October 2004) has encouraged a move away from adversarial workplace dispute resolution based on tribu-
nals, by introducing three-step procedures for disciplinary and grievance issues. These procedures involve meetings between employer and employee to resolve matters before proceeding to formal (and adversarial) hearings (Department of Trade and Industry 2006a, 2006b). There are many independent organisations offering mediation for workplace disputes, and several large organisations (especially public service ones, such as local authorities and NHS\(^1\) health service trusts) have arranged training for staff to be workplace mediators.

Restorative justice in regulatory bodies
The Better Regulation Executive at the Cabinet Office has been discussing possible plans for implementing restorative justice as part of modernising the system of sanctions within the regulatory bodies. There are about 60 national government regulatory bodies, such as the Health and Safety Executive, the Environment Agency, and the Food Standards Agency, to name but a few; and also many local authority regulators. The implementation of restorative justice would enable the needs of victims of regulatory crimes to be addressed. This could happen in three ways: as a pre-court diversion, instead of an administrative fine, or as part of criminal proceedings. The Better Regulation Executive published the Macrory Review in May 2006 as a consultation paper, intending to publish a final report in autumn 2006 (Hodbod 2006; Macrory 2006a, 2006b).

There is a much longer history of ‘restorative regulation’ in Australia. For instance, in 1988 the Australian federal government took over the regulation of nursing homes from the states, and, at the same time, introduced a more restorative approach, with a more resident-centred focus. Criminal prosecutions were replaced by consultations with residents, staff and other bodies about how care could be improved, in line with a set of 31 agreed outcome standards. Another instance involved an insurance scam in which 300,000 policy-holders were systematically defrauded, including 22 remote Aboriginal communities. A series of meetings and consultations resulted in remedies for the victims and a raft of measures to prevent any future occurrence (Braithwaite 2002; Macrory 2006).

RJ City\(^2\)
RJ City was conceived by Dan Van Ness of Prison Fellowship International Centre for Justice and Reconciliation. The intention was to design a model justice system capable of handling all crimes, all offenders and all victims, and then to test its viability by constructing a computer simulation.

The project imagines that cities of a million people or more have full responsibility to deal with all crimes within their city. In return, all resources currently devoted by local

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1 National Health Service in the UK.
2 ‘RJ City’ is a Service Mark in the US.
and national governments to addressing those crimes are given to those cities. So cities can design their own justice systems, but have to pay for any resources they need, such as forensic laboratories, prison space, etc. The project aims to describe the new restorative system after it has been running for ten years.

The project is being conducted in four phases:

1. Design a written model of the outline and structure of a restorative system.
2. Prepare descriptions of restorative programmes, training, public education campaigns, staff supervision and evaluation etc. to ‘fill in’ the outline.
3. Create a computer simulation of the model and adapt the model as required.
4. Adapt the simulation into two products:
   (a) a public policy instrument that can accept actual data from particular jurisdictions to demonstrate the feasibility of restorative justice
   (b) an educational simulation game that will teach students how to manage organisational change to bring about a restorative justice system.

The documents for phase one have been prepared and critiqued in workshops conducted in the UK, New Zealand and the US. An advisory board has offered overall guidance as well as recommendations (Van Ness 2005).

Victim Support pilots for enhanced service to victims of crime

The Restorative Justice Consortium is working with Victim Support and the Victims Unit at the Home Office to try to include a restorative service as part of the pilots, which are in Salford, Nottingham and North Yorkshire (Clothier 2006).

Space precludes the enumeration of other developments.

Acceptance of restorative justice

One of the key tests of how far ideas and philosophies have spread and become accepted by professionals and the public is whether people have heard of them. Five years ago, mention of restorative justice usually elicited a baffled frown and, ‘What on earth is that?’ Now it is more likely to be met with, ‘Oh yes, I’ve heard of that, my brother/cousin/daughter/friend is involved in that.’ Or ‘I saw/heard something on TV/radio, it sounded really good.’ In many quarters, especially in the criminal justice system and in schools, restorative justice has been shortened to ‘RJ’, a sign that everyone will surely know what it means.

When a concept has entered everyday language, there is a good chance that it is here to stay.
References
APPENDIX 1


December 2004

Processes
1/ Primary aim to be the repair of harm.

2/ Agreement about essential facts of the incident and an acceptance of some involvement by the person who caused the harm.

3/ Participation to be voluntary for all participants and based on informed choice. This also applies to what is included in any outcome agreement, and any consequence for non-participation/compliance to be made clear.

4/ Adequate time to be given to participants to decide whether to take part and to consult with others, if they wish.

5/ Acknowledgement of the harm or loss experienced by the person harmed, respect for the feelings of participants, and an opportunity for the resulting needs to be considered and where possible met.

6/ The person/s who have been harmed or suffered loss to be (if they wish) the primary beneficiary of any reparation agreed with the person who has caused the harm.

7/ Where harm is repaired or amends made, this to be acknowledged and valued.

8/ The person/s who has harmed and the person/s harmed are the primary participants of any restorative process.

9/ Restorative practitioners to be seen as neutral by participants, and to act impartially.

Equalities/Diversity/Non-discrimination
10/ Participants not to be discriminated against for any reason.

11/ Diversity to be respected.

12/ Respectful behaviour to be maintained in restorative processes, whilst enabling emotions and needs to be expressed.

13/ The rule of law to be up-held.

14/ Respect for the dignity of all participants at all times.
Information, Choice and Safety

15/ Access to information and referral to other organisations who might offer assistance to participants, before, during, after or if they decline participation in a restorative process.

16/ Opportunity to participate in a restorative process, except where there is a significant risk of further harm, there is disagreement about the critical facts, or parties do not wish to participate.

17/ Ensuring choice is available to the participants regarding restorative processes, including direct and indirect forms of communication and the nature of any reparation.

18/ Safety of participants before, during and after participation in a restorative process.

19/ Additional protection and support for the particularly vulnerable to enable full participation.

20/ Restorative Practitioners to keep confidential the content of restorative communications and personal information, subject to the informed consent of participants, the requirements of the law, and their agencies’ policies.

21/ Restorative agreements to be fair, appropriate to the harm done and achievable.

Agreements/Outcomes

22/ Outcomes of a restorative process to be monitored and timely action taken should a problem occur. Any developments should be communicated to participants, unless they have asked not to be contacted.

23/ Evaluation of processes and outcomes to be carried out wherever possible.

24/ Learning from restorative processes to lead to a reduction in harm and the fear of crime; whilst encouraging cultural and behavioural change amongst individuals and communities. This in turn can lead to improved social harmony and safer communities. Therefore, where appropriate, practitioners and services are encouraged to find ways to safely promote this learning to others.

Organisation/policies

25/ Those agencies/individuals carrying out restorative practices to have a commitment to practice based on the needs of the participants.

26/ Organisations to be encouraged to use restorative principles in other areas of conflict, such as internal grievance, disciplinary systems, and external procedures, e.g. client complaints, wherever possible.

27/ Organisations and practitioners to have a commitment to high quality restorative practice through appropriate training, services and support for practitioners, and complying with the best practice guidance available at the time.

28/ To provide best outcomes for participants, organisations carrying out restorative processes to ensure co-ordinated multi-agency working is established.

Annex

Basic principles on the use of restorative justice programmes in criminal matters

Preamble

Recalling that there has been, worldwide, a significant growth of restorative justice initiatives,

Recognizing that those initiatives often draw upon traditional and indigenous forms of justice which view crime as fundamentally harmful to people,

Emphasizing that restorative justice is an evolving response to crime that respects the dignity and equality of each person, builds understanding, and promotes social harmony through the healing of victims, offenders and communities,

Stressing that this approach enables those affected by crime to share openly their feelings and experiences, and aims at addressing their needs,

Aware that this approach provides an opportunity for victims to obtain reparation, feel safer and seek closure; allows offenders to gain insight into the causes and effects of their behaviour and to take responsibility in a meaningful way; and enables communities to understand the underlying causes of crime, to promote community well-being and to prevent crime,

Noting that restorative justice gives rise to a range of measures that are flexible in their adaptation to established criminal justice systems and that complement those systems, taking into account legal, social and cultural circumstances,

Recognizing that the use of restorative justice does not prejudice the right of States to prosecute alleged offenders,

I. Use of terms

1. “Restorative justice programme” means any programme that uses restorative processes and seeks to achieve restorative outcomes.

2. “Restorative process” means any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles.
3. “Restorative outcome” means an agreement reached as a result of a restorative process. Restorative outcomes include responses and programmes such as reparation, restitution, and community service, aimed at meeting the individual and collective needs and responsibilities of the parties and achieving the reintegration of the victim and the offender.

4. “Parties” means the victim, the offender and any other individuals or community members affected by a crime who may be involved in a restorative process.

5. “Facilitator” means a person whose role is to facilitate, in a fair and impartial manner, the participation of the parties in a restorative process.

II. Use of restorative justice programmes

6. Restorative justice programmes may be used at any stage of the criminal justice system, subject to national law.

7. Restorative processes should be used only where there is sufficient evidence to charge the offender and with the free and voluntary consent of the victim and the offender. The victim and the offender should be able to withdraw such consent at any time during the process. Agreements should be arrived at voluntarily and contain only reasonable and proportionate obligations.

8. The victim and the offender should normally agree on the basic facts of a case as the basis for their participation in a restorative process. Participation of the offender shall not be used as evidence of admission of guilt in subsequent legal proceedings.

9. Disparities leading to power imbalances, as well as cultural differences among the parties, should be taken into consideration in referring a case to, and in conducting, a restorative process.

10. The safety of the parties shall be considered in referring any case to, and in conducting, a restorative process.

11. Where restorative processes are not suitable or possible, the case should be referred to the criminal justice authorities and a decision should be taken as to how to proceed without delay. In such cases, criminal justice officials should endeavour to encourage the offender to take responsibility vis-a-vis the victim and affected communities, and support the reintegration of the victim and the offender into the community.

III. Operation of restorative justice programmes

12. Member States should consider establishing guidelines and standards, with legislative authority when necessary, that govern the use of restorative justice programmes. Such guidelines and standards should respect the basic principles set forth in the present instrument and should address, inter alia:

   (a) The conditions for the referral of cases to restorative justice programmes;
   (b) The handling of cases following a restorative process;
   (c) The qualifications, training and assessment of facilitators;
   (d) The administration of restorative justice programmes;
   (e) Standards of competence and rules of conduct governing the operation of restorative justice programmes.

13. Fundamental procedural safeguards guaranteeing fairness to the offender and the victim should be applied to restorative justice programmes and in particular to restorative processes;

   (a) Subject to national law, the victim and the offender should have the right to consult with legal counsel concerning the restorative process and, where necessary, to
translation and/or interpretation. Minors should, in addition, have the right to the assistance of a parent or guardian;

(b) Before agreeing to participate in restorative processes, the parties should be fully informed of their rights, the nature of the process and the possible consequences of their decision;

(c) Neither the victim nor the offender should be coerced, or induced by unfair means, to participate in restorative processes or to accept restorative outcomes.

14. Discussions in restorative processes that are not conducted in public should be confidential, and should not be disclosed subsequently, except with the agreement of the parties or as required by national law.

15. The results of agreements arising out of restorative justice programmes should, where appropriate, be judicially supervised or incorporated into judicial decisions or judgements. Where that occurs, the outcome should have the same status as any other judicial decision or judgement and should preclude prosecution in respect of the same facts.

16. Where no agreement is reached among the parties, the case should be referred back to the established criminal justice process and a decision as to how to proceed should be taken without delay. Failure to reach an agreement alone shall not be used in subsequent criminal justice proceedings.

17. Failure to implement an agreement made in the course of a restorative process should be referred back to the restorative programme or, where required by national law, to the established criminal justice process and a decision as to how to proceed should be taken without delay. Failure to implement an agreement, other than a judicial decision or judgement, should not be used as justification for a more severe sentence in subsequent criminal justice proceedings.

18. Facilitators should perform their duties in an impartial manner, with due respect to the dignity of the parties. In that capacity, facilitators should ensure that the parties act with respect towards each other and enable the parties to find a relevant solution among themselves.

19. Facilitators shall possess a good understanding of local cultures and communities and, where appropriate, receive initial training before taking up facilitation duties.

IV. Continuing development of restorative justice programmes

20. Member States should consider the formulation of national strategies and policies aimed at the development of restorative justice and at the promotion of a culture favourable to the use of restorative justice among law enforcement, judicial and social authorities, as well as local communities.

21. There should be regular consultation between criminal justice authorities and administrators of restorative justice programmes to develop a common understanding and enhance the effectiveness of restorative processes and outcomes, to increase the extent to which restorative programmes are used, and to explore ways in which restorative approaches might be incorporated into criminal justice practices.

22. Member States, in cooperation with civil society where appropriate, should promote research on and evaluation of restorative justice programmes to assess the extent to which they result in restorative outcomes, serve as a complement or alternative to the criminal justice process and provide positive outcomes for all parties. Restorative justice processes may need to undergo change in concrete form over time. Member States should therefore encourage
regular evaluation and modification of such programmes. The results of research and
evaluation should guide further policy and programme development.

V. Saving clause

23. Nothing in these basic principles shall affect any rights of an offender or a victim which are
established in national law or applicable international law.

on the Use of Restorative Justice Programmes in Criminal Matters.’ In Handbook on Restorative
APPENDIX 3

Glossary

Acceptable Behaviour Contracts (ABCs)
A voluntary written agreement between a person who has been involved in anti-social behaviour and one or more local agencies whose role is to prevent such behaviour (e.g. police and housing). The contract specifies a list of anti-social acts in which the person has been involved and which they agree not to continue. Where possible the individual should be involved in drawing up the contract. The contract, unlike an Anti-Social Behaviour Order, is not legally binding. ABCs are most commonly used for young people but may also be used for adults.

Action Plan Order
This Order requires a young offender to follow an action plan for three months, which can include a variety of activities designed to prevent further offending. These activities are specified in the Order and can include such things as alcohol or drug counselling, anger management, victim awareness, mediation or reparation.

Adjudication (prison)
The formal way of responding to a disciplinary charge laid against a prisoner is a hearing run by a governor (an adjudication). Typical punishments include a loss of earnings (fines), confinement to a cell, and loss of evening association (social time outside cells). If the charge is serious enough to warrant additional days in prison, then the hearing is conducted by a magistrate.

Alternatives to Violence Project (AVP)
This project takes conflict resolution workshops into prisons to offer inmates alternative ways of responding to conflict situations without violence.

Anti-Social Behaviour Order (ASBO)
A civil order made by the court, containing conditions prohibiting the person on the order from specific anti-social acts or entering defined areas. The order is effective for a minimum of two years and can be applied by local authorities, police and registered social landlords, but not members of the public. The civil status of ASBOs means that hearsay and professional witness evidence can be heard in ASBO applications. Breach of an order is a criminal offence, which can attract a prison sentence of up to five years for an adult or two years for a young person.

Bullying
Bullying occurs when one individual or group establishes a position of domination over another or others through a process of intimidation. The position of relative power is exploited. The exploitation persists over a period of time. Most common institutions such as schools, workplaces and prisons.

Cell work
Work done by prisoners on their own in their cells. Refers to a Victim Impact Course which was converted into a set of six cell-work modules for prisoners to work through on their own, and then go through their work with a member of staff (see Chapter 9).

Children, Young Persons and Their Families Act 1989 (New Zealand)
Act introducing Family Group Conferences as the way of dealing with serious offences committed by young people.
Children’s Hearings (Scotland)
Informal hearings for children aged 8–15 in trouble with the law or in need of care and protection. They are held in private and usually attended by the child, their parents/carers, the Children’s Reporter, three trained lay panel members, a social worker and other relevant people. After discussion with everyone, the panel members decide the measures needed.

Circle of Friends
A small group of friends gathered together to support a child who needs help at any particular time, especially if their behaviour seems to alienate other children. The volunteers undertake thorough training. The group provides friends for a child when they feel no one likes them, and can alert the child to any behaviour that seems to be leading them into trouble.

Circle Time
Everyone sits in a circle (preferably on chairs of the same height) in a room where there will be no interruptions, and contributes in turn. A ‘talking piece’ is passed round and a participant can only talk (if they choose to do so) while holding the ‘talking piece’. It can be used in many circumstances and encourages the use of many restorative skills and values – mutual respect, empathy, active listening, impartiality, non-judgmental acceptance of difference and win–win problem-solving.

Circles of Support and Accountability for sex offenders
A small number of volunteers (four to six) are recruited from the community in which a high-risk sex offender will be living. The volunteers undertake thorough training. A Circle is a support network for the offender, while holding him accountable for his actions; the aim is to prevent re-offending.

Community conference
A meeting involving members of a community who come together to resolve a conflict, facilitated by an impartial third party in a safe and positive way.

Community Justice Centre (North Liverpool)
Combines a court with a range of community resources (e.g. advice and help agencies), covering a small area with a single judge, who gets to know the community well. There are regular meetings with local residents.

Community Justice Panel (Chard and Ilminster)
Multi-agency project with trained volunteers who form a community panel to find restorative solutions to cases of low-level crime.

Community mediation service
A community-based service which uses mediation to defuse neighbour and community conflict, some of which could escalate into crime.

Community reparation
Work done for the community of general benefit. For adult offenders it is now called ‘Unpaid Work’ (formerly ‘Community Service’).

Community of Restoration (prison)
A prison wing run along restorative lines, offering a ‘whole-life’ community experience based on Christian values. It uses pro-social modelling, group work, discussions and meetings, as well as community living. Kainos Community is the British programme.

Community sentence
The Criminal Justice Act 2003 created a single community sentence under which all the options in the different community orders are available. It can include reparation.
Compensation
Monetary payment by offenders to victims. A Compensation Order can be made by courts directing offenders to make amends for damage or loss suffered by the victim. They are paid (usually in instalments) to the court, which then forwards the money to the victim.

Conditional Caution
Caution under the Criminal Justice Act 2003, for minor offences. There must be sufficient evidence to charge a suspect, who must admit the offence. Specific conditions are attached to the Caution. If the offender fails to comply, he or she will be prosecuted for the original offence.

Conference (or conferencing)
A group meeting convened to sort out a conflict. It can be used with any size of group, from two people in dispute (when it is more usually referred to as mediation) to a whole class. People sit in a circle, so that everyone can see everyone else. Sometimes a ‘talking piece’ is used, as in Circle Time. Often a script with a list of questions is used to help communication.

Conflict resolution skills
Skills of communication, cooperation and problem-solving, which form the first stage of learning mediation skills.

Crime and Disorder Act 1998
This Act set up the Youth Justice Board (YJB) to oversee work with young offenders, and Youth Offending Teams in each area of England and Wales, bringing together police, social workers, probation officers and health and education workers. The principal aim of the Youth Offending Teams and the legislation was set out as the prevention of future offending. Several new measures and sentences were introduced, for example Reprimands, Final Warnings, Reparation Orders, Action Plan Orders and Detention and Training Orders.

Criminal Injuries Compensation Scheme
Provides state-funded compensation to victims of violent crime or bereaved relatives, whether or not the offender has been caught. The injuries must be serious.

Criminal Justice Act 2003
The Criminal Justice Act has five main purposes of sentencing: to punish offenders, protect the public, reduce crime, reform and rehabilitate offenders, and make reparation by offenders to those affected by their offences. The Act allows for reparation in the following provisions and sentences: conditional caution, deferred sentence, community sentence, suspended sentence or intermittent custody.

Criminal justice system
Shorthand for all the organisations involved in crime and the way it is dealt with, such as police, prosecution, courts, Probation, Prison Services and many other agencies.

Data Protection Act 1998
This legislation prohibits police passing on victim details to other organisations. In some areas this prevented victims being offered restorative approaches, while others have construed Youth Offending Teams as being part of the ‘police network’.

Deferred sentence
An order under the Criminal Justice Act 2003. Offenders can be required to complete undertakings in the community as part of a deferred sentence, before coming back to court.

Detention and Training Order
Court order for 13–17-year-olds, in which the first half of the sentence is spent in custody and the second half in the community. They can be 4–24 months in length.
Direct reparation
Reparation to the actual victim of the offence, for example writing a letter of apology, making something for the victim or doing some work for the victim.

Domestic violence/abuse
Threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) between adults who are or have been intimate partners, or intimately related within a family or domestic setting, regardless of gender or sexuality. It involves abuse of power and control by one person over another.

Facilitator
A fair and impartial third party whose role is to facilitate the participation of victims and offenders in a way that best meets their needs.

Family Group Conference (child welfare cases)
In cases where there are concerns about the welfare of children, the extended family meets with representatives of agencies, for example Social Services, health and schools, to decide a plan for children. The meeting is run by an independent facilitator and, after all views have been stated, the family has private meeting time to create a plan, which is then put to the whole conference for acceptance.

Family Group Conference (criminal cases)
The young person who has offended, with members of his or her extended family, meet with the victim and supporters of the victim and possibly representatives of agencies, for example Social Services and schools. The meeting is run by an independent facilitator and, after all views have been stated, the family has private meeting time to create a plan (which includes reparation to the victim), which is then put to the whole conference for acceptance.

Family Group Meeting – See Family Group Conference

Final Warning
This is usually given for a second minor offence, following a reprimand for a first minor offence; the young person must admit the offence. As part of a Final Warning, the young person must be referred to the local Youth Offending Team for a programme of interventions to prevent re-offending. At the Final Warning stage participation is voluntary, but refusal may be taken into account if there are further offences. Restorative work can be done at this stage.

Gacaca (Rwanda)
These are local, open-air hearings overseen by people of integrity elected by their neighbours, to deal with the perpetrators of genocide in Rwanda in 1994.

Hate crime
A criminal offence committed against a person or property that is motivated by an offender’s hatred of or prejudice towards someone because of their race, colour, ethnic origin, religion, gender, sexual orientation or disability. It can take many forms, such as assaults, threats, damage to property, graffiti, offensive letters, verbal abuse, etc.

Healing Circle
Similar to Peace-making Circles (see below). Used by the Hollow Water community to deal with multiple cases of sexual abuse.

Healing of Memories
Workshops which bring together people from different backgrounds after large-scale violence (e.g. South Africa, Northern Ireland) – including both victims and perpetrators – to tell their stories in a small group setting. The workshops are experiential and interactive in nature, with an emphasis on emotional and spiritual understanding of the past.
Indirect mediation
A process in which a mediator enables communication between two (or more) parties without a face-to-face meeting. Sometimes also called shuttle mediation.

Intermittent custody
An order under the Criminal Justice Act 2003, which allows a prison sentence to be served intermittently. There is a licence period to be served in between the periods of custody, and this period may have requirements set by the court.

International Criminal Court (ICC)
Established in 1998 (and came into force in 2002) to promote the rule of law and ensure that the gravest international crimes do not go unpunished. Based in The Hague, the Netherlands, it can prosecute individuals accused of genocide, war crimes and crimes against humanity, if the countries concerned are unable or unwilling to do so.

I-statements
First-person statements expressing feelings, without accusing anyone.

Lifer
Life-sentence prisoner. Lifers serve a period of time in prison (their ‘tariff’, set by the judge) before being considered for parole, which then depends on progress made. When released, they are on life licence and can be recalled at any time if they re-offend or are deemed at risk of doing so.

Local Criminal Justice Boards (LCJBs)
Part of regional structure under NOMS (see below). Forty-two Local Criminal Justice Boards (LCJBs) have been set up in England and Wales. These boards bring together the chief officers of all the local criminal justice agencies to coordinate activity and share responsibility for delivering criminal justice in their areas.

MAPPA
Multi Agency Public Protection Arrangements, the local strategy to work with known sex offenders in the community, to prevent re-offending. The MAPPA was set up in 2001.

Mediation (general)
A process in which an impartial third party helps two (or more) disputants work out how to resolve a conflict. The disputants, not the mediators, decide the terms of any agreement reached. Mediation usually focuses on future rather than past behaviour.

Mediation (victim–offender)
This is a process in which an impartial third party helps the victim(s) and offender(s) to communicate, either directly or indirectly. The mediation process can lead to greater understanding for both parties and sometimes to tangible reparation.

Mediator
A person who helps two (or more) parties in a dispute (or a victim and an offender) to work towards a resolution. A mediator is impartial, is not directly involved in the dispute and has no stake in the outcome.

Mentoring
Mentoring is a one-to-one, non-judgemental relationship in which an individual gives time to support and encourage another. In peer mentoring, children and young people act as mentors to other children.

National Offender Management Service (NOMS)
The planned merged services of prisons and probation. NOMS has introduced a new national structure, including an Executive Director, Regional Offender Managers (ROMs) who will be responsible for commissioning services in each of ten regions, and case management through local offender managers. The latter will oversee the offender’s path from pre-sentence through prisons and resettlement.
Negotiation
The process of disputants working out an agreement between themselves.

Nonviolent Communication (NVC)
A model of communication which focuses on people in conflict moving from blaming each other to expressing their needs so that these can be better met. It can be used to help victims and offenders to prepare for mediation.

Offence
An act which is prohibited by the criminal law, which has been reported to the police and recorded or proceeded upon.

Offender
A person who has admitted, takes responsibility for or has been convicted of an offence.

Peace Committees (South Africa)
Groups of local township residents engaged in peace-making (resolving conflicts) and peace-building (addressing structural problems such as poverty and unemployment). Starting in the early 1990s, they work in many townships to resolve conflicts in local communities. There is little distinction between civil and criminal cases. Respected local people act as facilitators.

Peace-making Circles (formerly known as Sentencing Circles)
Circles including offenders, victims, families, community members, police and judges, which come together after a crime to discuss what has happened and to arrive at a sentence by consensus. There may be several circles (e.g. for the victim, for the offender, for the whole community) which continue until everyone has contributed what they need to say. Mainly practised in Canada.

Peer mediation
A process in which children and young people act as mediators to help other children and young people sort out their conflicts, if asked to do so.

Pre-sentence report (PSR)
Report on an offender ordered by a court, to help decide on an appropriate sentence. It is usually written by a probation officer, Youth Offending Team officer or social worker (Scotland).

Probation Victim Liaison Service
Under the Criminal Justice Court Services Act 2000, the victim of a serious crime (where the offender is sentenced to a term of imprisonment for 12 months or more for a violent or sexual offence) has a statutory right to be given information about the offender and his eventual release. The Probation Service has a statutory duty to contact all such victims and consult with them.

Procurator Fiscal (Scotland)
The Crown Office and Procurator Fiscal Service (COPFS) is responsible for the prosecution of crime in Scotland.

Redress consultant (Belgium)
Restorative justice adviser in a Belgian prison, to help develop a restorative regime and practice. There are 30 redress consultants, one in each prison.

Referral Order
Court order which involves the referral of a young offender, who has pleaded guilty and is appearing in court for the first time, to a Youth Offender Panel, under the provisions of the Youth Justice and Criminal Evidence Act 1999. See also Youth Offender Panel.
**Reintegrative shaming**  
Process in which an offender exhibits shame for the offence and is reintegrated into their community.

**Reparation**  
The contribution that can be made by the offender to the victim, to help put right the harm (physical or emotional) caused by the crime. It can be made directly to the victim or indirectly to the community.

**Reparation Order**  
This requires young offenders to make reparation to the victim or to the community. It can involve up to 24 hours’ work and must be completed within three months. It does not include monetary compensation. Victim awareness work, mediation and reparation work can all count towards the hours of a Reparation Order.

**Reprimand**  
This is the response to a first offence by a young person, and is carried out by the police.

**Restorative conference (or conferencing)**  
Supporters, as well as victim and offender, meet together in a conference run by a trained facilitator. Often a script with a list of questions is used to help communication. At the end, agreements are made that set out what the offender will do to try to put right the harm done.

**Restorative justice**  
Restorative justice works to resolve conflict and repair harm. It encourages those who have caused harm to acknowledge the impact of what they have done and gives them an opportunity to make reparation. It offers those who have suffered harm the opportunity to have their harm or loss acknowledged and amends made.

**Restorative prisons**  
Prisons which look at all aspects of the way a prison operates and ensure that it does so in a restorative way. Restorative justice becomes a total philosophy informing all their activities.

**Restorativeness**  
The degree to which a process or programme is seen to be restorative (see Chapter 1).

**Retail Theft Initiative**  
Organised scheme involving shops in restorative approaches to shoplifting and other commercial theft.

**Retributive justice**  
This aims to deliver a proportionate amount of punishment to an offender who has committed a crime. Victims have no part to play except as witnesses in cases where offenders plead not guilty.

**School councils**  
Democratically elected groups of students who represent their peers and attend meetings to discuss matters affecting them and the school.

**School exclusions**  
Occasions when students are excluded from school for a set number of days, as punishment for misbehaviour.

**Secure training centre (STC)**  
Secure environment for young people aged 12–17, boys and girls.

**Sentencing Circles** – See Peace-making Circles
Sex Offender Treatment Programme
Treatment programme for sex offenders (mostly in prison) to teach self-control mechanisms to change attitudes and behaviour and stop further offending.

Sexual abuse/sexually harmful behaviour
Sexual act or behaviour which is committed against the victim’s will or without consent or in an aggressive/exploitative manner. It can include contact and/or non-contact behaviour.

Shuttle mediation – See Indirect mediation

Supervision Order
This provides supervision of a young offender for up to three years. The young person must report regularly to his or her supervising officer in the Youth Offending Team, and undertake any additional requirements. These orders have existed for many years, but the Crime and Disorder Act 1998 made provision for them to include mediation and reparation where appropriate.

Support Group Method to reduce bullying
Originally called the No Blame Approach. A teacher talks to the victim of bullying about their feelings, then talks (non-judgementally) to the alleged bully and some bystanders, asking what they can do to make things better for the victim.

Suspended Sentence Order
An order under the Criminal Justice Act 2003, in which a short prison sentence of 2–13 weeks is suspended for up to two years while requirements in the community (set by the court) are undertaken. If the offender re-offends or breaches any of the requirements, the custodial term is activated.

Sycamore Tree
A faith-based victim awareness programme run in prisons by Prison Fellowship, based on the Bible story of Zacchaeus, who climbed a sycamore tree before meeting Jesus and making restitution to his victims (Luke 19: 1–10).

Therapeutic communities (prisons)
Prison programme based on therapeutic community principles, where a dedicated multidisciplinary team of staff works together with prisoners, in an atmosphere where attitudes and expressions are discussed in an open and honest way, to gain understanding of their offending. Grendon is the best-known example.

Truth Commissions
Usually established by new governments to research and report on human rights abuses over a certain period of time in a particular country or in relation to a particular conflict. Truth Commissions allow victims, their relatives and perpetrators to give evidence of human rights abuses in an official forum. They work for a limited period, and usually produce a final report with conclusions and recommendations. The aim is to account for and end past abuses, promote reconciliation and make a fresh start.

Truth and Reconciliation Commission (South Africa)
Set up after the change of government and abolition of apartheid in 1994, to deal with the atrocities and human rights abuses committed by the apartheid regime over many years. It was set up in December 1995, to cover the period 1960 to 1994, and reported in 1998. It dealt with ‘gross violations of human rights’, including killing, abduction, torture and severe ill-treatment.

Ubuntu (South Africa)
Concept which encompasses issues of human dignity and respect with the understanding that an individual’s humanity is wrapped up in the dignity and humanity of others.
Unpaid Work (formerly Community Service)
Work ordered by a court to be performed by an offender to benefit the community. The court sets the number of hours (from 40 to 240 hours), and the probation service matches the offender to a suitable project.

Victim (of crime)
A person against whom an offence has been committed (and that person’s family, friends, witnesses and others who have been affected by the crime).

Victim awareness/empathy/impact work
This is work done with offenders, to help them become more aware of the effect their crime has had on their victim(s). It can be undertaken in its own right and also as a preparation for a meeting with the victim.

Victim liaison officer (or victim contact worker)
This is a worker who contacts victims and liaises between them and those working with the offenders. They work in Youth Offending Teams, and also in Probation Victim Liaison Units (see above).

Victim Offender Dialogue (US)
Programmes for victims of serious violent crime and their offenders, based in the Victim Services Department of the Department of Corrections. The primary purpose is to facilitate and support the healing process of victims and survivors of violent crime who request communication with the offender. A secondary purpose is to facilitate and support the healing process of perpetrators of violent crime.

Victim–offender conferencing – See Restorative conference (or conferencing)

Victim–offender groups
Groups where victims and offenders of similar crimes (e.g. burglary), but not the actual crimes, meet to discuss the impact of these crimes.

Victim–offender mediation
The victim and offender, helped by an independent mediator, communicate with one another. This may be by direct meeting or, if preferred by either the victim or the offender, indirectly with the mediator acting as ‘go between’ in a ‘shuttle mediation’. Questions may be asked, information exchanged and an agreement reached.

Victim Support
National charity with network of local branches throughout the UK, providing help and support for victims of crime.

Victim Witness Service
Helps victims of crime and their families if they are called to give evidence in court. It is available in all Crown Courts and Magistrates’ Courts in England and Wales.

Whole-school approach
An approach which involves all aspects of the way a school functions, and to which all staff subscribe.

Young Offender Institution
Custodial institution run by the Prison Service, accommodating 15–21-year-olds.

Youth Justice and Criminal Evidence Act 1999
This provided a new sentence for 10–17-year-olds pleading guilty and convicted for the first time. It is the first legislation in the UK with directly restorative provisions including the victim in the process. It brought in Referral Orders (see above), which are made by courts for a period of time between 3 and 12 months. The courts then refer the young person to a Youth Offender Panel, which meets in an informal setting away from the court (see Youth Offender Panel).
Youth Offender Panel (after Referral Order)
First-time convicted young offenders (who have been given a Referral Order – see above) and parents/carers meet with two trained community volunteer panel members and a member of the Youth Offending Team, to discuss the offence and its consequences, and agree a contract to repair the harm and address the causes of offending behaviour. Victims are invited to attend or have their views put before the panel.

Youth Offending Team
Multidisciplinary team of professionals (police, Probation, Social Services, health and education) sharing resources in working with young offenders to implement the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999.

Acknowledgements
APPENDIX 4

Further Reading/Resources in Restorative Justice

The books and resources below are a selection. They are listed in the following sections:

1. General restorative justice
2. Manuals and guides
3. Victims
4. Early years
5. Schools
6. Young people
7. Anti-social behaviour
8. Prisons
9. Sexual offending
10. Around the world
11. Research and evaluation
12. Videos and DVDs

Shortly after the completion of this book Mediation UK closed, due to lack of funds. A successor organisation is being formed. Contact Maria Arpa, email: maria@mariaarpa.co.uk.

1. General restorative justice


2. Manuals and guides


For school manuals, see section on schools.

3. Victims


4. Early years


5. Schools


Circle Time – many resources from Lucky Duck, Paul Chapman Publishing. www.luckyduck.co.uk


6. Young people


7. Anti-social behaviour


8. Prisons


9. Sexual offending


10. Around the world


11. Research and evaluation


12. Videos and DVDs


APPENDIX 5

Organisations and Websites

Websites were checked at the time of writing; but they are subject to much change and may no longer be available as time goes on. Organisations and websites are listed in the following sections:

1. Organisations involved in restorative justice
2. Organisations with an interest in restorative justice
3. Victims
4. Early years
5. Schools, children and young people
6. Prisons
7. Sexual offending
8. Around the world
9. Large-scale violence
10. Bookshops and publishers

1. Organisations involved in restorative justice

Shortly after completion of this book Mediation UK closed, due to lack of funds. A successor organisation is being formed. Contact Maria Arpa, email: maria@mariaarpa.co.uk.

* Best sources of general information on restorative justice.

ApologyPlus
www.apologyplus.org.uk

Community Justice Centre, North Liverpool
0151 298 3600
www.communityjustice.gov.uk

Community Justice Panel (Chard and Ilminster)
01460 260341
valerie.keitch@southsomerset.gov.uk
Conflict Resolution Network
01753 574780
www.conflictresolutionnetwork.org.uk

Family Rights Group (Family Group Conferences)
020 7923 2628
www.frg.org.uk

The Forgiveness Project
0208 964 4034
www.theforgivenessproject.com
Home Office
www.homeoffice.gov.uk (then type Restorative Justice in the Search box)

International Institute for Restorative Practices
(International) www.iirp.org
(UK) www.iirp.org/uk
01706 810201

Nonviolent Communication (NVC)
(International) www.cnvc.org
(UK) www.nvc-uk.info

Northern Ireland Youth Conferencing Service
028 9031 6418
www.youthconferenceserviceni.gov.uk

REMedI (Restorative Justice and Mediation Initiatives)
South Yorkshire Victim Offender Mediation Service
0114 241 2790
www.remediuk.org

*Restorative Justice Consortium
020 7653 1992
www.restorativejustice.org.uk

Restorative Justice in Scotland
www.restorativejusticescotland.org.uk

*Restorative Justice Online (part of Prison Fellowship International)
www.restorativejustice.org

Supporting Others through Voluntary Action (SOVA)
020 7793 0404
www.sova.org.uk

Thames Valley Police (Restorative Justice)
www.thamesvalley.police.uk/news_info/info/rj/rj-rp.htm

2. Organisations with an interest in restorative justice

Centre for Crime and Justice Studies
020 7848 1688
www.kcl.ac.uk/ccjs

Churches Criminal Justice Forum
020 7901 4878
www.ccjf.org

Crime Concern
01793 863500
www.crimeconcern.org.uk

Howard League for Penal Reform
020 7249 7373
www.howardleague.org
Appendix 5: Organisations and Websites

Nacro
020 7582 6500
www.nacro.org.uk

National Offender Management Service (NOMS)
020 7035 4848
www.noms.homeoffice.gov.uk

National Probation Service
www.probation.homeoffice.gov.uk

Penal Reform International
020 7924 9575
www.penalreform.org

Quaker Peace and Social Witness
020 7663 1000
www.quaker.org.uk

Sacro, Safeguarding Communities – Reducing Offending
0131 624 7270
www.sacro.org.uk

Scottish Children’s Reporter Administration (Children’s Hearings)
www.scra.gov.uk

Thames Valley Partnership
01844 202001
www.thamesvalleypartnership.org

Youth Justice Board
020 7271 3033
www.yjb.gov.uk

3. Victims

Criminal Injuries Compensation Authority
www.cica.gov.uk

Probation Victim Contact
www.probation.homeoffice.gov.uk/output/page29.asp

Victim Support (England and Wales)
(National office) 020 7735 9166
(Victim supportline) 0845 30 30 900
www.victimsupport.org

4. Early years

High/Scope
(US) www.highscope.org
(UK) www.high-scope.org.uk
0845 388 0016
National Children’s Bureau
020 7843 6000
www.ncb.org.uk

Parentline Plus
020 7284 5500
www.parentlineplus.org.uk

5. Schools, children and young people

Aik Saath
01753 574780
www.aiksaath.com

International Institute for Restorative Practices
www.iirp.org
www.realjustice.org

Leap Confronting Conflict
020 7272 5630
www.leaplinx.com

Mentoring + Befriending Foundation
0161 787 8600
www.mandbf.org.uk

PeerLink
020 7272 5630
www.peerlink.org.uk

Pop-Up/Equal Voice
020 7609 3339
www.equalvoice.net

School Councils UK
0845 456 9428
www.schoolcouncils.org

Transforming Conflict
National Centre for Restorative Justice in Education
0118 933 1520
www.transformingconflict.org

UNICEF
www.unicef.org

Government websites
Anti-bullying programme: www.dfes.gov.uk/bullying
Citizenship: www.dfes.gov.uk/citizenship
Children’s services: www.everychildmatters.gov.uk
National programme for specialist leaders of behaviour and attendance:
    www.teachernet.gov.uk/wholeschool/behaviour
National Strategies: www.standards.dfes.gov.uk
PSHE (Personal Social and Health Education): www.teachernet.gov.uk/pshe
6. Prisons

Alternatives to Violence Project (AVP)
0845 458 2692
www.avpbritain.org.uk

Inside Out Trust
01273 833050
www.inside-out.org.uk

International Centre for Prison Studies (ICPS)
020 7848 1922
www.prisonstudies.org

Just Alternatives (Victim Offender Dialogue in Crimes of Severe Violence in US)
www.justalternatives.org

Kainos Community in Prisons
01483 479521
www.kainoscommunity.com

Pennsylvania Prison Society Restorative Justice Program (US)
www.prisonsociety.org/progs/rj.shtml

Prison Fellowship England and Wales
01621 843232
www.prisonfellowship.org.uk

Prison Fellowship International
www.pficjr.org

Prison Service
www.hmprisonservice.gov.uk

Prison Service (England and Wales) Mediation Service
Staff Care and Welfare Service
charles.franks@hmps.gsi.gov.uk

Scottish Prison Service Mediation Service
Equality and Diversity Team
Scottish Prison Service
0131 244 3648
kenneth.selbie@sps.gov.uk

Sycamore Tree Programme
(International) www.pficjr.org/programs/stp
(UK) See Prison Fellowship England and Wales

7. Sexual offending

AIM Project, Manchester
0161 743 4666
aimproject@msn.com
Circles of Support and Accountability for sex offenders
(Canada) www.csc-scc.gc.ca/text/prgrm/chap/circle/proj-guid/index_e.shtml
(UK – national) 020 7663 1022; www.quaker.org.uk/circles; Helen Drewery: helend@quaker.org.uk
(UK – Thames Valley and Hampshire project) 01235 816050; circlesqpsw@btconnect.com

8. Around the world
This is just a selection.

Asia
www.restorativejustice.org/resources/world/asia1/

Australia
- Centre for Restorative Justice – Australian National University: http://crj.anu.edu.au

Canada
- Department of Justice, Canada: http://canada.justice.gc.ca
- Restorative Justice in Canada: www.crnetwork.ca/RJ
- Other websites: www3.sympatico.ca/cfcn/research.html

European Forum for Restorative Justice
www.euforumrj.org

Latin America
www.restorativejustice.org/resources/world/latam/

New Zealand

South Africa
- Restorative Justice Centre: www.rjc.co.za
- Centre for the Study of Violence and Reconciliation: www.csvr.org.za
- Centre for Conflict Resolution: http://ccrweb.ccr.uct.ac.za

UN Commission on Crime Prevention and Criminal Justice

US
- Balanced and Restorative Justice Project (BARJ): www.barjproject.org
- Center for Restorative Justice and Peacemaking, Minnesota: http://rjp.umn.edu
9. Large-scale violence

**International criminal courts**
Human Rights Watch: www.hrw.org
International Criminal Court (ICC): www.icc-cpi.int/about.html
International Criminal Tribunal for Rwanda (ICTR): www.ictr.org
International Criminal Tribunal for the former Yugoslavia (ICTY): www.un.org/icty
Penal Reform International (PRI) ‘Transitional Justice’:
  www.penalreform.org/transitional-justice.html
War Resisters’ International: www.wri-irg.org

**Former Yugoslavia**
Videoletters Project: www.videoletters.net

**Northern Ireland**
- Healing Through Remembering
  028 9023 8844
  www.healingthroughremembering.org
- Healing of Memories (Northern Ireland)
  07905 172592
  wartrauma@yahoo.co.uk
- Glencree Centre for Peace and Reconciliation
  (01) 282 9711
  www.glencree.ie

**South Africa**
- Institute for Healing of Memories: www.healingofmemories.co.za
- Truth and Reconciliation website: www.doj.gov.za/trc

10. Bookshops and publishers

**Incentive Plus**
01908 526120
www.incentiveplus.co.uk

**Jessica Kingsley Publishers**
020 7833 2307
www.jkp.com
London Mennonite Centre
0845 4500 214 or 020 8340 8775
www.menno.org.uk
www.metanoiabooks.org.uk

Lucky Duck, Paul Chapman Publishing Ltd
(Orders) 020 7324 8500
(Publishing/training) 0117 947 5150
www.luckyduck.co.uk

Quaker Bookshop
020 7663 1030
www.quaker.org.uk

Waterside Press
0845 2300 733
www.watersidepress.co.uk

Willan Publishing
01884 849085
www.willanpublishing.com
APPENDIX 6

Index of Case Studies

NB Information in brackets following case study title refers to age (YP = young person, under 18 years; Adult = over 18 years) and gender of the main subject(s) of the case study.

Chapter 3: Restorative Approaches Involving Victims and Offenders Separately

Children’s Hearing (YP, m) 59
Circles of Support and Accountability – Harry (Adult, m) 66–7
Escaping Victimhood (Adults, m) 57–8
Mediation and alcoholism (Adult, m) 68
NVC with prisoners (YPs, m) 70
The core member’s perspective (age and gender unknown) 65
Victim awareness work (group) – Bristol Prison (Adult, m) 64
Victim awareness work (individual) – Youth Offending Team (YPs, m and f) 63–4
Victim Support work (Adults, m and f) 54–5
Victim Witness Service (YPs, m) 56
Youth Offending Team – cleaning graffiti from trains (YP, m) 61
Youth Offending Team – clearing weeds round a village hall (YP, f) 62
Youth Offending Team – work with children’s theatre group (YP, m) 60
Youth Offending Team and Victim Support organise trip for young victims (age and gender unknown) 55

Chapter 4: Models of Restorative Justice Involving Victims and Offenders Together

Acceptable Behaviour Contract – football (YPs, m) 94–5
Air gun injury (Moscow) (YP, m) 101
Conferencing – escalation in playground (YPs, m) 84
Conferencing – village brawl (YPs, m) 84
Crime prevention – community conference on football (YPs, m and f) 79–80
Direct mediation – assault (YP, f) 75–6
Direct mediation – goods stolen on a ferry (YP, m) 74–5
Diversion to community mediation – stolen apples (YPs, m) 78–79
Family Group Conference – child welfare case (Adult, f) 86
Family Group Conference – offending spree and family tensions (YP, m) 89
Family Group Meeting – bag snatch (YP, m) 87–9
Fights and assaults (Serbia) (YPs, m) 101–2
Indirect mediation (Adults, YPs, m and f) 77
Peace-making Circle – assault on police officer (YP, m) 96–8
Referral Order with victim involvement but no attendance at Panel – assault (YP, f) 93
Retail theft initiative (Adult, YP, f) 99
Victim–burglar group in the community (Adult, m) 100–1
Youth Offender Panel with victim – robbery and assault (YP, f) 92
Youth Offender Panel with victim – theft of moped (YP, m) 91–2
Youth Offender Panel without victim – attempted robbery (YP, m) 90–1
Chapter 5: Restorative Approaches for the Early Years of Life

Broken book (YP, f) 115
Equal Voice – Sasha and Carl (YPs, m and f) 112
Mediating between a child and a teacher (YP, f) 112–13
Nursery school (YP, m) 110–11
Playgroup (YPs, m) 109
Restorative approaches and special educational needs (YP, f) 113–14
The toilet rolls (YP, f) 114–15

Chapter 6: Restorative Approaches in Schools

Benefits for peer mediators (secondary) (YPs, m and f) 127
Circle of Friends (primary) – the ‘Cough Group’ (YP, m) 128–9
Circle Time (primary) – thefts resolved (YPs, gender unknown) 122
Comments from adult mentors (YPs, gender unknown) 122
Conferencing (secondary) – bullying and fights (YPs, f) 131–2
Conflict between parents affects children (secondary) (YPs, f) 130–1
Conflict resolution skills (secondary) (YP, f) 121
Informal situations – an apparent case of bullying (YPs, m and f) 138
Informal situations – theft of a tin of sweets (YPs, m) 137
Mediation (primary) – assault leading to broken jaw (YPs, f) 129–30
Mediation after suspension for swearing (secondary) (YP, m) 134–5
Peer mediation (primary) (YPs, m and f) 127
Peer mediation (secondary, boys) – fights and cussing (YP, m) 126
Peer mediation (secondary, girls) – falling out with a friend (YPs, f) 125
Peer mediators at work (secondary) (YPs, m and f) 126–7
Peer mentoring (YPs, m and f) 123
Restorative conference instead of exclusion for causing injury (YP, m) 135
Restorative conferencing (secondary) – cigarette lighter prank (YP, m) 134
Restorative conferencing (secondary) – sexual incident (YP, m) 132–3
Restorative conferencing (secondary) – theft from a teacher (YPs, m) 133–4
Support Group Method (YP, f) 136–7

Chapter 7: Restorative Justice with Victims and Young Offenders in the UK

Action Plan Order – fire damage to church (YPs, m) 148–9
Adult ASBO avoided through mediation (Adult, m) 165
Alternatives – mediation and reparation for burglary (YP, m) 170
Assessment and indirect mediation – kids running wild (YPs, m) 163–4
Asylum seekers and mobile phones (YPs, m) 163
Criminal damage to a care home (YP, f) 159
Family Group Meeting – football damage (YPs, m) 164–5
Final Warning – garden centre damage (YP, m) 146–7
Final Warning – smashed milk crate (YP, m) 145
Northern Ireland Youth Conference Service – burglary of house (YP, m) 171–2
Reparation Order – welcome board for school (YP, f) 148
Restorative approached to anti-social behaviour (Adult, f, YPs, gender unknown) 162–3
Scotland – burglary leads to conference (YP, m) 166–7
Scotland – shoplifting and damage (YP, m) 167–8
Supervision Order – theft of briefcase from car (YPs, m) 149
Threatening behaviour towards staff in children’s home (YP, m) 160
Youth Offender Panel (indirect mediation arranged for later) (YPs, m) 152–3
Youth Offender Panel (no personal victim) – possession of cannabis (YP, m) 152
Chapter 8: Restorative Justice with Victims and Adult Offenders in the UK
Aggravated burglary leading to nightmares (Adult, m) 177–8
Assault due to misunderstanding (Adult, f) 196–7
Community Justice Panel – aggressive driver (Adult, m) 186
Conditional Caution – assault and neighbour dispute (Adults, m) 183
Conditional Caution – criminal damage (Adult, m) 182–3
Diverting offenders from court – violent disturbances (Adults, m) 176–7
Dramatic way to leave a job (Adult, m) 195–6
Indirect and direct mediation – arson (YP, m, Adults, f) 179
Indirect mediation – bank fraud (Adult, m) 180
Indirect mediation – burglary by friend (Adult, m) 179–80
Manchester Adult Restorative Justice Project – murder (Adult, m) 190–3
Probation resettlement scheme – house burglary (Adult, m) 188–90
Rehabilitation and mediation – shoplifter with drugs problem (Adult, m) 180–1
Restorative justice as a specified activity in a Community Order – assault on neighbour (Adult, f) 184
Shop burglary with unforeseen effects (Adults, m) 177
Theft from a shop (Adult, m) 176

Chapter 9: Restorative Justice in Prisons 1: Prisoners Making Amends
An offender speaks about meeting his victim (Adult, m) 228
Citizens, victims and offenders restoring justice (USA) (Adults, m) 218
Computer repair workshop, HMP Stafford (Adults, m) 202–3
Conference in prison – robbery at petrol station (Adults, m) 227
Murder (Adult, m) 219
Prison mediation – collision with police car (YP, m) 221–2
Prisoners help in Citizens Advice Bureau (Adults, m) 204
Prisoners talk to schoolchildren about drugs (Adult, m) 204–5
SORI – victim of burglary and murder (Adults, m) 214–15
Sycamore Tree course in one prison (Adults, m) 210–11
Sycamore Tree final session (Adults, m) 211–12
Urban park regeneration schemes (Adults, YPs, m) 203–4
Victim Contact Unit – death by dangerous driving (Adult, m) 223
Victim Impact Groups in Bristol Prison (Adults, m) 206–7
Victim Liaison Unit – murder (Adult, m) 224–6
Victim–burglar group, Bristol Prison (Adults, m) 216–17
Victim–offender group – Rochester Youth Custody Centre (YPs, m) 215–16
Young Offender Institution – burglary (YP, m) 220

Chapter 10: Restorative Justice in Prisons 2: Relationships in the Prison Community
Adjudications – resolving a fight (YPs, m) 237–8
Alleged assaults on a lifer unit (Adults, m) 239
AVP workshop in a local prison (Adults, m) 248–9
Bullying in the Juvenile Correctional Institution (Serbia) (YP, m) 241–3
Disruptive behaviour in prison (Adult, m) 239
Kainos Community in one prison (Adults, m) 246
Restorative Justice in three Belgian prisons (Adults, m) 252–3
Restorative Unit in a Canadian prison (Adults, m) 246–7
Secure training centre – assault and possible bullying (YPs, f) 236–7
Staff/inmate conflict resolved (Adult, f, YP, m) 238

Chapter 11: Restorative Justice Around the World
Case studies from Uganda (YPs, m) 274
Criminal vehicular homicide (Adult, m) 262–5
Norway assault case (Adults, m and f) 270–1

Chapter 12: Restorative Justice in Complex and Sensitive Cases
Aik Saath – benefits for young people (YPs, m and f) 308
Family Group Conference in situation including domestic violence (Adult, m) 287–8
Family Group Conference in situation of alleged sexual offences (Adult, m) 300–1
Father–daughter abuse (Adult, m) 296
Gangs in Castlemilk, Glasgow (YPs, m and f) 310–11
Gangs in Kings Cross, London (YPs, m and f) 311–12
Gangs in race conflict (YPs, m and f) 313–14
Hollow Water community (Adults, YPs, m and f) 301–2
Lisa’s story (Denmark) (Adult, m) 303–4
Nazi salute (YP, m) 309
North Carolina – alleged harassment (Adults, m and f) 294–5
Peace Committee hears domestic violence case (Adults, m and f) 290
Racial abuse, intimidation and assault (Adults, m and f) 307
Racist slogans and asylum seekers (YPs, m) 308–9
Racist taunts leading to a fight and assault (YPs, m) 306
Rape cases (South Africa) (YPs, m) 302–3
Referral Order – indecent assault (YP, m) 297
Setting fire to a mosque (YP, m) 309
Sex offences – work with victim (YP, m) 297
Three London schools (YPs, m and f) 312

Chapter 13: Issues in Restorative Justice
Institutional restrictions and inadequate practice (YP, m) 319–20
Mental health issues (Adult, m) 320–1
Murder – lifer forgiven (Adult, m) 331
Murder victims – journeys towards forgiveness (Adults, f) 330–1
Stolen bike – no remorse (YP, m) 322–3
The Forgiveness Project – views on forgiveness (Adults, m and f) 328–9
The Forgiveness Project in prison (Adult, m) 329
Unexpected responses (YP, m) 322
Young person in rebellion (YP, f) 321–2

Chapter 15: Restorative Justice After Large-Scale Violence or Oppression
Argentina – mother of one of the Disappeared (Adult, m) 370
Balkans – young Bosniak and Serb meet and work together (Adults, m) 376–7
Chile – mother of one of the Disappeared (Adult, m) 371
Glencree – workshops for victims and ex-combatants (Adults, m and f) 374
Northern Ireland – Healing of Memories workshop (Adults, m and f) 372–3
Rwanda – views of Gacaca (age and gender unknown) 369
South Africa Truth and Reconciliation Commission (Adults, m and f) 366
Videoletters films (YPs, m) 378–9
Chapter 16: Arts Approaches to Restorative Justice

A useful poster (YP, f) 406

Apology rap on CD (YP, m) 407

Car crime video – ‘September 4, A Day that Changed My Life’ (YP, m) 391–2

Comic strip – assault (YP, m) 397

Community reparation – mural for adventure playground (YPs, gender unknown) 404–5

Drama – robbery at knifepoint (Adult, f) 384–5

Drama – young people and assault (YP, m) 385–6

Drama in prison – burglary (1) (Adults, m) 386–7

Drama in prison – burglary (2) (Adult, m) 387–8

Mozambique – Throne of Weapons (Adult, m) 412

Northern Ireland – community arts for reconciliation (Adults, YPs, gender unknown) 415–6

Orchestra for young Israelis and Arabs (YPs, m and f) 416–7

Peru – photographic image bank (Adults, gender unknown) 415

Photography project to address gender, race and refugee issues (YPs, f) 406–7

Reparation to victims thought art (YPs, m and f) 399–403

Role play in adult prison (Adults, m) 389

Role play in Young Offender Institution (YPs, m) 389

Rwanda – paintings to promote reconciliation (Adult, f) 413–14

Song composed by young person (YP, m) 408

‘Srebrenica Now’ exhibition (Adults, f) 411–12

Sri Lanka – photography workshops for women affected by war (Adults, f) 410

Talking to terrorists (Adults, m and f) 415

Teaching DJ skills (YPs, m) 408

Victim impact drawings (YPs, m) 393–6

Video for Headway (YP, m) 391
Subject Index

Aboriginals 37, 83, 95, 260, 288, 301–2, 421
Acceptable Behaviour Contracts (ABCs) 93–5, 161–2, 431
acceptance 422
accreditation 46–7
Action Plan Orders 43, 60, 148–9, 431
adjudications 237–8, 431
adult offenders 22, 44–5, 195–7, 198
Government funded projects 193–5, 226–8
mediation services 175–8, 178–81
resettlement 187–9
Advisory, Conciliation and Arbitration Service (ACAS) 38
Africa 23, 37, 49, 272–6
African Transformative Justice Project 274–5
age of criminal responsibility 165
Aik Saath 307–8
AIM (Assessment Intervention Moving on) Project 298–9
alcoholism 68
Aldington, Clair 398
Alternatives to Violence Project (AVP) 30, 68–9, 247–9
amends 22, 201–29
Angel, Caroline 348
Anglicans 39
Anglo-Saxons 37
Anti-Social Behaviour Orders (ASBOs) 20, 93, 160–5, 431
Argentina 244, 276–7, 370
arson 148–9, 179, 309
arts 24, 383, 420
drama 383–92
music 407–9
oppression 409–15
reconciliation 415–17
reparation 398–406
schools 406–7
visual arts 392–8
Asia 37, 49, 277–8
Asperger Syndrome 113–14
assault 75–6, 92, 96–8, 101–2, 125–6, 183, 184, 196–7, 306, 307
prisons 236–7
Association of Restorative Practitioners (ARP) 47
asylum seekers 163, 308–9, 400, 406–7
Australasia 23, 265–8, 349–51
Australia 21, 50, 244, 267–8, 343, 421
conferencing 41–2, 117, 267–8
Australian National University 42, 194, 340
Austria 25, 269, 290–3, 341, 349
Avon and Somerset Police 185
Balanced and Restorative Justice (BARJ) Project 261
Balkans 24, 375–9
‘Srebenica Now’ exhibition 410–12
bank fraud 180
Behaviour Improvement Programme 139
Belgium 251–3, 256, 271, 341, 349, 420
Best Practice Guidance for Restorative Practitioners 35, 45, 46, 285
Better Regulation Executive 421
Bolivia 244, 277
Boraine, Alex 374
Bowers, Sue 117
Braithwaite, John 42, 278
Brazil 244, 276
Bridges to Life 353
Bristol Association for the Care and Resettlement of Offenders (BACRO) 38
Bristol Prison Restorative Justice Project 386
Brookes, Sue 250
Bulgaria 244
bullying 131–2, 135–7, 138, 319–20, 431
prisons 234–7, 241–3
burglary 166–7, 171–2, 177–8, 179–80, 188–9, 214–15, 216–17, 220, 393, 396, 403
NCALM Mediation Service Hate Crime Project 306–7
Canada 21, 31, 38, 50, 246–7, 259–60, 261, 279, 343, 352, 353
domestic abuse 288
Peace-making Circles 95–6, 259
sex offenders 301–2
Carter Report 187
case studies
Acceptable Behaviour Contracts 94–5
Action Plan Orders 148–9
adjudications 237–8

460
adult offender mediation schemes 176–8, 179–81
Alternatives to Violence 248–9
anti-social behaviour 162–5
artwork in schools 406–7
Balkan conflicts 377, 378–9
Belgium 252–3
bullying in prisons 236–7
Canada 246–7
children in care 159, 160
Children’s Hearing 59
Circle of Friends 128–9
Circle Time 122
Circles of Support and Accountability 65, 66–7
Community Justice Panels 186–7
community mediation 78–80
Community Orders 184
Conditional Cautions 182–3
conferencing 84
conferencing in prisons 227–8
conferencing in secondary schools 131–2, 132–5
conflict resolution skills 121
conflicts in prison 238, 239
crime prevention 79–80
direct mediation 74–6
Disappeared, The 371
domestic abuse 287–8, 290, 294–5
drama 384–6
drama in prisons 386–8
Equal Voice 112
Escaping Victimhood 57–8
Family Group Conferences 86, 87–9
Family Group Meetings 164–5
Final Warnings 145–7
forgiveness 328–31
gangs 310–14
hate crimes 306, 307, 308–9
High/Scope approach 109, 110
indirect mediation 77
informal restorative approaches (children) 137–8
Inside Out Trust 202–4
Kainos Community 246
mediation 68
mediation in primary schools 112–13, 127, 129–30
mediation in secondary schools 125–7, 130–1
memorial exhibitions 410–15
mentoring 122, 123
Moscow 101
murder 190–3, 214–15, 219, 330–1
music 407–8
Nonviolent Communication 70
Northern Ireland 170, 171–2
Norway 270–1
nursery schools 110
Peace-making Circles 96–8
peer mediation 125–7
playgroups 109
prison initiatives 204–5
rape 302–4
Referral Orders 93
reparation artwork 399–406
Reparation Orders 148
resettlement 188–9
restorative approaches at home 114–15
retail theft initiative 99
role play 389
Rwanda 369, 413–14
Scotland 166–8
Scotland and adult offenders 195–7
Serbia 101–2
sex offenders 296, 297, 299, 300–1
SORI (Supporting Offenders through Restorative Inside) 214–15
special educational needs 113–14, 128–9
Supervision Orders 149
Sycamore Tree Programme 210–12
Troubles, Northern Ireland 372–3, 374
Truth and Reconciliation Commission 366
Uganda 274
United States 262–5
unsuccessful mediations 319–23
victim awareness work 63–4
Victim Contact Units 223
victim impact work 393–6
Victim Liaison Units 224–6
Victim Support 54–5
Victim Witness Service 56
victim–burglar group in the community 100–1
victim–offender conferencing 84–5
victim–offender groups 215–17
victim–offender mediation 74–7
Young Offender Institutions 220, 221–2
Youth Offender Panels 90–3, 151–4
Youth Offending Teams 60–2
Cautions 99
Central Mediation Services 221
Central Michigan University 169, 170
Centre for the Study of Forgiveness and Reconciliation 331
Chard and Ilminster Community Justice Panel 185–6, 432
cell work 208, 431
Central Mediation Services 221
Central Michigan University 169, 170
Centre for the Study of Forgiveness and Reconciliation 331
Chard and Ilminster Community Justice Panel 185–6, 432
children 103–4
child welfare cases 84–5, 86
children in care 158–60
conflict resolution training 104–5
Equal Voice 111–12
High/Scope approach 105–9
informal restorative approaches 137–8
children cont.
mediating between child and
teacher 112–13
self-esteem 111
special educational needs
113–14, 128–9
Children in Need 404
Children (Scotland) Act 1995
58
Children Statute 1996 (Uganda)
273
Children Young Persons and
Their Families Act 1989
(NZ) 41, 266, 431
Children’s Hearings 47, 58–9,
166, 432
Children’s Reporters 59, 166
Chile 244, 370–1
Christianity 208, 244
Christie, Nils 38, 269
chronology 49
Churchill Scholarship 42
Circle of Friends 128–9, 432
Circle Time 121–2, 131, 432
Circles of Support and
Accountability 31, 65–7,
301, 432
Code of Practice for Victims of
Crime 285
communities 26–7, 29
Communities of Restoration
(APAC) 244–7
Community Justice Centres 185,
432
Community Justice Panels
185–7, 432
community mediation services
31, 165, 178–81, 432
Community Panels 150
community reparation 31,
59–62, 432
Community Restorative Justice
Ireland (CRJI) 48, 168,
170
Community Safety 189
Community Service 201–5, 229
Community Service Orders
37–8, 60, 185
Community Services Programme
171
Compassionate Friends 54
compensation 56, 351–2, 433
Compensation Orders 37
Competent Mediator Status 46
conferencing 41–2, 83–5, 87,
117, 184, 433
Australia 41–2, 117, 267–8
benefits 28–9
New Zealand 41, 83, 86,
265–7
prisons 227–8
schools 131–2, 132–5
see also Family Group
Conferences
see also victim–offender
conferencing
conflict resolution 74, 433
music 408–9
prisons 233–4, 238–9
schools 119–21
training 104–5
Conflict Resolution Education
in Sheffield Schools
Training (CRESST) 120
Conflict Response in Schools
Programme (CRISP) 120
CONNECT 179, 193, 194,
340
cost-effectiveness 352–4
Costa Rica 244
courts 29, 43
Coventry Magistrates Court
40, 176
Crown Courts 55, 176
International Criminal Courts
362–3, 435
King’s Courts 37
Leeds Crown Court 40, 176
Magistrates’ Courts 55, 176
Wolverhampton Magistrates
Court 40, 176
Youth Courts (NZ) 48, 266
Crime and Disorder Act 1998
40, 42, 43, 44, 60, 144–5,
150, 160, 433
Crime Concern 156
crime prevention 79–80,
339–41
Crime Reduction Programme
193
criminal cases 86–7
Criminal Injuries Compensation
Scheme 37, 56–7, 433
Criminal Justice Act 2003 45,
181–2, 198
Criminal Justice Review Group
48
criminal justice system 29–30,
325–6, 433
England and Wales 143–65
Northern Ireland 47–8, 50,
143, 168–72
Scotland 47, 50, 143, 165–8
Crofton School, Lewisham
138–9
Crown Prosecution Service 186
Czech Republic 271
damage 145, 146–7, 148–9,
151, 159, 167–8, 182–3,
274, 401
dangerous driving 223–4,
262–5
Dannahy, Pat 69–70
Data Protection Act 1998 154,
433
Daybreak Dove Project 286–7
Denmark 303–4, 349
Department for Education and
Skills (DfES) 140
Department of Corrections (US)
228
Detention and Training Orders
145, 433
Devon and Cornwall Police 195
dialogue 26
Doerfler, David, 261
domestic abuse 229, 261, 277,
283–4, 434
Austria 290–3
Canada 288
Finland 293–4
South Africa 288–90
Thailand 290
United Kingdom 284–8
United States 294–5
Domestic Violence, Crime and Victims Bill 2004 285
drama 383–4
interludes in conferences 384–6
prisons 386–8
reparation projects 389–92
role play 388–9
drug use 152, 180–1
Dutroux, Marc 251

East Timor 369–70
Ecuador 245
Edgar, Kimmett 233
Education and Inspection Bill (2006) 141
Education for Mutual Understanding (EMU) 120
Employment Act 2002 420–1
England and Wales 21, 30, 34, 45, 53, 55, 187, 245
criminal justice system 143–65
Prison Service 243–4
Equal Voice 243–4
Essex Family Group Conferencing 87, 340, 346
Essex Family Group Conferencing 87, 340, 346
Family Group Conciliation Service 38
Family Group Conferences (FGCs) 28, 84–9, 259, 277, 286, 434
Essex Family Group Conferencing 87, 340, 346
Family Group Meetings 164–5
Family Mediation 286
Fights 83–4, 101–2, 125, 131–2, 237–8, 306
Final Warnings 42, 43, 99, 145–7, 156, 434
Finland 293–4
First Nations 37, 260, 288, 301–2
Fletcher, Judge David 185
football 79–80, 94–5, 164–5
forgiveness 327–8, 331–2
offenders 331
victims 330–1
Forgiveness Project 328–9
Forum for Initiatives in Reparation and Mediation (FIRM) 39
Friends Conflict Resolution Programs 74
future offending 27
Gambia 274–5
gangs 309–14
Germany 245, 342, 349
Ghana 274–5
Glasgow Restorative Justice Service 141, 166, 348
Good Friday Agreement 48
Glencree Centre for Reconciliation 373–4
Government funded projects 193–5, 226–8
Government initiatives in schools 140–1
Government Office for the South West (GOSW) 185
Great Britain 57
Greater Manchester Police 189
Greater Manchester Youth Justice Trust 87, 189
Guatemala 371
Gunn, Dan 250
Gustafson, David 261
Hate crime 304–9, 434
gangs 309–14
Healing Circles 259, 260, 301–2, 353, 434
Healing of Memories projects 328, 367, 372–3, 409–10, 434
Healing Through Remembering Project 374
Hereford and Worcester Probation Service
Mediation and Reparation Scheme 40
High/Scope approach 105–11
Home Office 39, 40, 65, 176, 339, 419
adult offenders 193–5
Restorative Justice Mapping Exercise 48, 201, 205, 218
Hopkins, Belinda 117, 118
incest 296, 299, 300–1
indecent assault 298
independent mediation services 178–81
Indianapolis Juvenile Restorative Justice Experiment 342, 349
indirect mediation 77, 435
Individual Support Orders (ISOs) 161
injury 101, 135, 221–2
Criminal Injuries Compensation Scheme 37, 56–7
Inside Out Trust 60, 201–4
International Criminal Courts 362–3, 435
International Institute for Restorative Practices (IIRP) 47, 81, 139, 279
intimidation 307
Iran 279
Islam 212, 309
Islington Borough Police 162
Islington Council Housing Department 162
mediation 27, 68, 435
benefits 28–9
community mediation 78–80
direct mediation 74–6
indirect mediation 77, 435
peer mediation 124–8,
239–41
prisons 237–41
schools 112–13, 124–31
Mediation Dorset 239
mediation services 175–8,
178–81
community mediation
services 31, 165,
178–81, 434
prison staff 243–4
Mediation UK 18, 39, 46, 327
Memnoites 34, 38, 260
mental health issues 320–1
Mentoring + Befriending
Foundation 123
mentoring 122, 123, 435
Metropolitan Police 194
Mika, Harry 169, 170
Milton Keynes Retail Theft
Initiative 42, 98–9
Misspent Youth: Young People and
Crime 42
Moreland, Lesley 219, 222, 330
Mozambique 412
murder 190–3, 214–15, 219,
224–6, 330–1
music 407–9
Nacro 193
National Association of Victims
Support Schemes (NAVSS) 39
National Behaviour and
Attendance Strategies
140–1
national curriculum 120, 141
National Early Years Network
104
National Family Conciliation
Council 38
National Family Mediation 38
National Mentoring Network
123
National Occupational
Standards for Restorative
Practice 46
National Offender Management
Service (NOMS) 45, 187,
198, 435
National Restorative Justice in
Schools Programme 140
National Standards for Youth
Justice 145
National Vocational
Qualifications (NVQs) 46
Native Americans 37
New Forest and Southampton
Mediation 163
New Zealand 21, 30, 48, 50,
172, 245, 279, 343–4,
354
conferencing 41, 83, 86,
265–7
Nicholl, Caroline 42
Nigeria 274–5
Nonviolent Communication
(NVC) 30, 69–70, 436
North America 23, 42, 169,
259–65
North Carolina District
Criminal Court Mediation
Program 261, 353
Northamptonshire Adult
Reparation Bureau 40, 176,
351–2
Northern Ireland 21, 24, 47–8,
53, 420
adult offenders 198
criminal injuries
compensation 57
schools 141
Troubles, Northern Ireland
372–4
Northern Ireland Youth
Conference Service 48,
171, 172, 324, 347–8
Northumbria Police 194, 341
Norway 30, 245, 269–71, 349
Nottinghamshire Police 42, 81
research cont.
  victim–offender groups 354–5
  victims and offenders 344–8
  resettlement of offenders 187–9
  restorative approaches at home 114–15
restorative justice 17–20, 355, 437
  adult offenders 22, 44–5, 175–98
  anti-social behaviour 160–5
  appeal 34
  arts 24, 383–417, 420
  children in care 158–60
  chronology 49
  complex and sensitive cases 23, 283–314, 420
Crime and Disorder Act 1998 42, 43, 44
criminal justice system 29–30
  definition 25–6
  early years 21, 103–16
  Europe 48–9, 269
  forgiveness 331–2
  future growth 419–23
  history 21, 37–50
  issues 23, 319–32
  local organisation 154–8
  oppression 24, 361–81
  positioning 30
  principles 26–7
  prisoners making amends 22, 201–29
  rehabilitation 68, 180–1
  related processes 30–1
  relationships in prisons 22–3, 233–56
research 23, 193–5, 335–56
  schools 21, 117–41, 420
  standards 34–5
  targets 144, 178
  training and accreditation 46–7
value 31–3
victims and offender working separately 21, 53–71
victims and offenders working together 21, 73–102
worldwide 23, 259–79
young offenders 21–2, 143–73
Restorative Justice: The Government’s Strategy 35, 44, 284
Restorative Justice Board 419
Restorative Justice Census 166
Restorative Justice Consortium (RJC) 40–1, 46, 47
  Principles of Restorative Processes 35, 425–6
Restorative Justice Mapping Exercise 48, 201, 205, 218
restorative processes 27–8, 425–6
Restorative Resolutions 343, 353
retail theft initiatives 42, 98–100, 156, 158, 437
RJ City 421–2
RISE (Reintegrative Shaming Experiments) 268, 343, 349
robbery 90–1, 92
Robinson, George 135
Rochester Youth Custody centre 215–16, 354, 389
role play 388–9
Rosenberg, Marshall 69
Royal Ulster Constabulary 48
Russia 272
Rwanda 275, 362, 367–9, 413–14, 434
Sacro (Safeguarding Communities – Reducing Offending) 47, 166, 195, 197, 341, 348
Safer Schools Partnerships 140
Salford Community Justice Initiative 185
Save the Children 104
School Councils UK 123
schools 117–18, 118–19, 420
art 406–7
Circle Time 121–2
conferencing 131–2, 132–5
conflict resolution 119–21
exclusions 138–9, 141, 437
Hampshire Family Group Conferences 139–40
mediation 124, 129–31
National Behaviour and Attendance Strategies 140–1
National Restorative Justice in Schools Programme 140
peer mediation 124–8
Safer Schools Partnerships 140
school councils 123, 437
Sefton Centre 139
Support Group Method 135–7
whole-school approach 118, 439
Scotland 21, 44, 47, 53, 245, 345–6, 420
adult offenders 195–7, 198
Children’s Hearings 47, 58–9, 166, 432
criminal justice system 47, 50, 143, 165–8
Prison Service 243, 244
schools 141
Scottish Children’s Reporter Administration (SCRA) 166
Sefton Centre for Restorative Practice 139
Sentencing Circles 95, 259, 260
Serbia 241–3, 256, 272, 375
sex offenders 31, 295–6
Canada 301–2
Circles of Support and Accountability 31, 65–7, 301, 432
Denmark 303–4
Sex Offence Prevention Orders 66
Sex Offender Treatment Programme 205, 438
South Africa 302–3
United Kingdom 296–301
sexual incidents 132–3
shame 326–7
Sheffield University 348
shoplifting 167–8
shuttle mediation 77, 438
Sierra Leone 379
Singapore 245
Skills for Justice 46
Social Services 86
Social Work (Scotland) Act 1968 58
Somerset Race Equality Council 186
Somerset Youth Offending Team 155–6
SORI (Supporting Offenders through Restoration Inside) 212–15
South Africa 24, 42, 275–6
domestic abuse 288–90
sex offenders 302–3
Truth and Reconciliation Commission 275, 363–7, 374, 440
South Australia Juvenile Justice (SAJJ) Project 351
South Somerset District Council 186
South Yorkshire Probation Service 175
South Yorkshire Victim–Offender Mediation Project 175
Southwark Mediation Centre Hate Crimes Project 305
SOVA (Supporting Others through Voluntary Action) 156
special educational needs 113–14, 128–9
Sri Lanka 410
Strang, Heather 42
Straw, Jack 42
Suggnom (non-government organisation) 252
Supervision Orders 43, 60, 149, 438
Support After Murder and Manslaughter (SAMM) 54
Support Group Method 135–7, 438
Surrey Police 42, 81
swearing 134–5
Sycamore Tree Programme 205, 208–12, 275, 438
Thailand 277, 279, 290
Thames Valley Mending Fences Project 162
Thames Valley Police 42, 48, 81, 194, 339, 340, 346, 352
conferencing 117, 184
Thames Valley Statutory Adult Restoration Service 183–4
Theatre ADAD 386
theatre plays 383–4
theatre projects 389–90
theft 74–5, 78–9, 86, 91–2, 122, 133–4, 137, 149, 176, 274, 322–3
retail theft initiatives 42, 98–100, 156, 158
Trainee’s Forum 46
training 46–7
conflict resolution training 104–5
transformative justice 25–6
Truth and Reconciliation Commission 275, 363–4, 374, 438
Amnesty Committee 365
Human Rights Violation Committee 364
Reparation and Rehabilitation Committee 364–5
truth commissions 24, 363, 369, 371–2, 375, 438
factors in success 379–81
Turkey 279
Uganda 273–4
UK College of Family Mediators 46
Ulster Quaker Peace Education Project 120
Ulster Quaker Service Committee (UQSC) 48, 168
Umbreit, Mark 261
UN Commission on Crime Prevention and Criminal Justice 260
UN Resolution 2002 278–9, 427–30
United Kingdom 21, 30, 50, 74, 351–2, 353, 420
domestic abuse 284–8
schools 81
sex offenders 296–301
victim services 37–8
United States 21, 50, 38, 245, 260–5, 342, 349, 353
crime prevention 339–41
conflict resolution training 104–5
domestic abuse 294–5
High/Scope approach 105–9
Peace-making Circles 95–6
schools 81
Victim Offender Dialogue 228–9, 261–2, 420
victim–offender groups 217–18, 354
universities 42, 47, 169, 170, 194, 251, 276, 331, 337, 340, 346, 348
Unpaid Work 37–8, 60, 185, 439
Van Ness, Dan 421
victim awareness 28, 63–4, 205–15, 388, 439
communication with victims 78
Victim Contact Units 44, 222–4
victim contact workers (VCWs) 154–5, 438
Victim Impact Groups 206–7
victim impact work 392–8, 439
Victim Liaison Units 179, 189, 190, 193, 194, 222, 224–6, 439
Victim Offender Dialogue (VOD) 228–9, 261–2, 420, 439
Victim Support 38, 39, 46, 53–5, 57, 158, 189, 190, 439
Community Justice Panels 186
pilot projects 422
Victim Witness Service 38, 55–6, 439
victim–offender conferencing 28, 80–1, 84–5, 218, 288–9, 439
community-based services 219–20
script 81–3
special cases 218–19
Victim Liaison Service 222–6
Young Offender Institutions (YOIs) 220–2
victim–offender groups 28, 100–1, 178, 215–17, 439
United States 217–18, 354–5
victim–offender mediation 73–7, 218, 260, 270, 439
community-based services 219–20
special cases 218–19
United Kingdom 1980–97 38–41
Victim Liaison Service 222–6
Young Offender Institutions (YOIs) 220–2
victim–offender reconciliation programmes (VORPs) 38, 342
Victimology Society 376
victims 28, 324–6, 438
forgiveness 330–1
priority 26
reintegration 27
research 344–8
trips for young victims 55
video conferences 76, 77
video projects 390–2
Videoleetters Project 377–9
violence 103–4, 105

Wagga Wagga Police, NSW, Australia 41–2, 80–1, 267
Wales see England and Wales
Walker, Gee 330
Wallis, Peter 62
Wandsworth Youth Offending Team 154–5
Weeks, Dudley 307, 308
Wessex Mediation and Reparation Service 99–100, 156–8
West Midlands Quaker Peace Education Project 120
West Yorkshire Probation Service Victim-Offender Unit 44, 178
West, Fred and Rosemary 329
William the Conqueror 37
Witchalls, Abigail 330
workplaces 420–1

Yantzi, Mark 38
Young Mediators’ Network (YMN) 128
Young Offender Institutions (YOIs) 157, 220–2, 439
Young Offenders’ Mediation Project 47
Youth Courts (New Zealand) 48, 266
Youth Criminal Justice Act 2002 (Canada) 260
Youth Justice Agency 171
Youth Justice and Criminal Evidence Act 1999 43–4, 90, 150, 439
Youth Justice Board 83, 140, 144, 340, 347
Youth Offender Panels 44, 83, 90–3, 150–4, 324, 440
Youth Offending Teams (YOTs) 40, 43, 44, 115, 139, 144, 145, 151, 178, 193, 308, 420, 440

Zehr, Howard 31–2

Community Justice Panels 186
community mediation services 179
local organisation 154–8
reparation orders 147, 150
reparation projects 389–92
Yugoslavia 362
Author Index

Aertsen, I. 252, 269
Aik Saath 308
Aldington, C. 398
Alldred, S. 416
Allen, R. 141
Alternatives 169
Alternatives to Violence Project 69, 248
Altweger, A. 293
Andersson, H. 304
Armour, M. 353
Association of Chief Police Officers of England, Wales and Northern Ireland 154
Audit Commission 42
Auld, J. 168, 170
Bacic, R. 370, 371, 410
Balanced and Restorative Justice 261
Banks, G. 205
Barenboim, D. 417
Barnes, T. 363
Beer, J. 74
Bennett, J. 244
Bhari, R. 312
Bischoll, M. 69
Bitel, M. 140, 249
Blagojevic, M. 375
Bloomfield, D. 363
Blunkett, D. 45, 187
Bonta, J. 343, 352
Boonst, A. 277, 290
Boriboonthana, Y. 277
Bowers, S. 120
Bowes, D. 42
Boyce-Tillman, J. 409
Bradshaw, W. 349
Braithwaite, J. 278, 326, 421

Braithwaite, S. 40, 157, 201, 233
Bristol Prison Restorative Justice Project 207
Brookes, S. 251
Brown, I. 30, 339
Brown, M. 127
Bubalo, G. 376
Burden, T. 347
Burford, G. 288
Byrne, T. 171
Campbell, C. 171, 348
Cantacuzino, M. 328
Carey, P. 370
Carolina Dispute Settlement Services 261
Carter, P. 45, 187
Centre for Conflict Resolution 276
Chakrabarti, S. 161
Christie, N. 38
CJOnline 182
Claasen, R. 290
Clare, J. R. 261
Clark, C. 405
Clothier, D. 422
Coates, R.B. 338, 342, 349
Community Justice Centre, North Liverpool 185
Conflict Resolution Network Canada 259, 260
Conflict Resolution Network UK 308
Consedine, J. 267
Cook, S. 185
Corry, G. 380
Craven Webster, S. 241
Crawford, A. 346, 347, 352
Crawley, J. 244
Criminal Injuries Compensation Authority 57
Criminal Justice Review Group 48, 198
Criminal Justice System Northern Ireland 171
Cross, L. 325
Crow, G. 140
Cushman, R. 342
Daly, K. 351
Dannahy, P. 69–70
Davis, G.C. 40, 128
Dawson, E. 372
De Montfort University 272
De Paor, J. 372, 374
De Vries, J.M. A. 372, 374
Deloria, DJ. 106
Department of Justice, Canada 259, 260
Department of Trade and Industry 421
Dignan, J. 351
Dissel, A. 276, 289, 302
Dölling, D. 342
Dowden, C. 336
Drewery, H. 66
Dunn, P. 162
Dutton, K. 166, 348
Edgar, K. 234, 235, 249, 253, 255
Edgeworth, P. 353
El Sharkawy, M. 212
Emerson, G. 155, 226
Equal Voice 111, 112
Evans, B. 106
Evje, A. 342
Exeter, East and Mid Devon Youth Offending Team 392

Feinstein, J. 312, 314
Finch, S. 104
Flinck, A. 294
Forget, M. 247
Francis, D. 380
Freshman, W. 158

Gartrell, D. 107
Gidley, R. 371
Glaser, B. 291
Greenwood, J. 260
Greif, E. 33, 159

Hanak, N. 376
Hankeman, S. 276
Harris, S. 247
Hartmann, A. 342
Hastie, K. 345
Hayes, H. 344

Healing Through Remembering Project 374
Helfgott, J. B. 218, 354
Helms, W. 353
Higgins, C. 417
Hinton, A. 158
Hird, C. 370, 379
Hitzl, E. 293
Hodbod, A. 421
Holton, L. 140

Home Office 35, 44, 45, 160, 161, 162, 181, 197, 194, 218, 222, 284, 285, 305, 419
Hopkins, B. 117, 118, 122, 131, 132
Houlston-Clark, J. 214
Hoyle, C. 42, 340, 346, 352
Human Rights Watch 363, 372
Hutse, L. 363

Iivari, J. 294
Immarigeon, R. 229, 255
Inside Out Trust 202, 204
Institute for Healing of Memories 410

International Centre for Prison Studies 204
International Criminal Court 363
International Institute for Restorative Practices 47

Jabbar, L. 353
Johnson, D.W. 105
Johnson, R.T. 105
Judge, N. 87, 340, 346
Just Alternatives 229, 262
Juvenile Correctional Institution in Krusevac 272
Juvenile Liaison Office 349

Kearney, N. 197
Keitch, V. 187
Keyumba, N. 368
Khan, O. 305
Kirkpatrick, S. 393
Kirkwood, S. 341
Kittayarak, K. 277
Kurdy, M. 161
Kuumba, N.J. 312, 314

Lampen, J. 39
Larkin, G. 343
Latimer, J. 336
Launay, G. 215, 354
Lawrence, C.F. 354
Lawrence, E. 141
Lawrence, M. 390
Leicestershire Mediation Services 393
Lewis, L. 141
Liberal Democrats 419
Liebmann, M. 40, 179, 201, 207, 233, 275, 387, 389, 397
Lind, B. 343
Little, A. 372–3, 410
Littlechild, B. 158
Lovell, M.L. 354
Luke, G. 343
Lynch, J. 296

MacFarlane, L. 341
MacKay, R. 255
Macrory, R. 421
Madsen, K.S. 304
Maguire, H. 170
Maines, B. 136
Malenkovic, M. 375
Manchester Adult Restorative Justice Project 193
Marsh, P. 140
Marshall, T. 33, 39, 40, 176, 339, 345
Martin, C. 234
Masters, G. 155
Matthews, S. 343
Maxwell, G. 266, 267, 343, 355
McAllister, M.J. 171
McCold, P. 33, 337, 342
McCulloch, H. 339
McGarrell, E.F. 342, 349
McGeorge, N. 261, 353
McHale, J. 69–70
McIlveen, J. 185
Mears, J. 99
Mediation UK 40, 41, 45, 125
Mentoring + Befriending Foundation 122, 123
Mercer, V. 164, 193, 323
Merry, S. 40, 176, 339, 345
Miers, D. 48, 269, 339, 341, 342, 349, 353
Miles, C. 214
Mirsky, L. 139, 159
Monk-Shepherd, R. 296
Moody, B. 328
Morland, L. 219, 331
Morris, A. 266, 267, 343, 355
Morrison, B. 118
Muse, D. 336
Murray, B. 105
Murray, P. 215, 354

Nacro 158
Nathanson, D. 326
Native Counseling Services of Alberta 353
New Forest and Southampton Mediation 164
New Zealand Ministry of Justice 261
Newburn, T. 346, 352
Newell, T. 39, 57, 234, 235, 249, 250, 253, 255
Newton, C. 139
Ngubeni, K. 289
Nicol, W.J. 341
Nikolic-Ristanovic, V. 375, 376
Northamptonshire Adult Reparation Bureau 176
Northern Ireland Office 172
Nugent, W.R. 337
Nullis, C. 366

O’Donnell, I. 234
O’Dwyer, K. 349

Parker, L. 277
Partington, M. 330, 387
Peacock, A. 285
Pelikan, C. 291, 292, 293
Penal Reform International 368–9
Pennell, J. 288
Peru Truth and Reconciliation Commission 372, 415
Philips, M. 246
Phillips, A. 156
Piemyat, S. 290
Plymouth Mediation 285
Porter, A. 348
Powney, A. 287
Prison Fellowship England and Wales 209, 244, 245
Prison Fellowship International 209, 275
Prison Fellowship New Zealand 209
Quaker Peace and Social Witness 65
Quill, D. 40

Rawlings, A. 120, 121, 122
Real Justice 326
Reeves, H. 25, 39
Reiger, K. 377
Republic of Uganda 273
Restorative Justice Consortium 25, 47
Restorative Justice Working Group Northern Ireland 386
Rethinking Crime and Punishment 34
Riding, A. 377
Rigby, A. 331–2, 381
Robb, G. 141
Roberts, A. 345
Robinson, G. 136
Roche, D. 332
Rock, P. 42
Rogers, J. 312
Rooney J. 343
Roos, L. 236
Rosenberg, Marshall 69
Ross, R. 288, 302
Roujanavong, W. 277
Sacro 166, 195, 384
Sandwell Mediation Service 221
School Councils UK 123
Schucman, H. 327
Schweinhart, L. 111
Scottish Children’s Reporter Administration 59
Scottish Executive 59, 141, 166
Scottish Prison Service 244
Scottish Restorative Justice Consultancy and Training Service 168
Shah, Z. 127
Shapland, J. 194, 340, 341
Shaw, R. 379
Sherman, L. 268, 338, 341, 343, 348, 419
South African Government Information website 366
Southwark Mediation Centre 306
Spahr-Finney, A. 193
Stevahn, L. 104, 105
Stewart, G. 161
Stieff, E. 74
Stone, S. 353
Strang, H. 268, 338, 341, 343, 348, 349–51, 419
Taylor, M. 287
Terreblanche, C. 366
Thames Valley Partnership 162, 204
Thames Valley Police Restorative Justice Consultancy 42
Thames Valley Statutory Adult Restoration Service 184
Thetford, W. 327
Thorsborne, M. 117, 118
Trifunovic, Z. 377
Triggs, S. 344
Truth and Reconciliation website 366
Tudor, B. 222
Turnbull, A. 139
Tutu, D. 363–4, 366
Tyrrell, J. 141
UK College of Family Mediators 286
Umbreit, M. 229, 260, 337, 338, 342, 345, 349
UN Commission on Crime Prevention 24, 35
University of Ulster 327
Unlimited 384
US Institute of Peace 363, 370
van den Broek, E. 377
Van Ness, D. 33, 245, 422
Vanfraechem, I. 341
Victim Support 284
Vinegrad, D. 117, 118
Vos, B. 338

Wachtel, B. 342
Wachtel, T. 33
Walker, K. 83, 158
Walker, T. 83, 158
Wall to Wall 307
Wallace-Capretta, S. 343
Wallis, P. 63, 399
Walpole, M. 39
Warner, S. 353
Warren, C. 117
Watters, D. 169
Webster, K. 236
Weikart, D. 106, 111
Wells, L. 120
White, I. 372, 374
Whyte, B. 166, 348
Wiesenthal, S. 328
Wilcox, A. 340
Willcock, R. 339
Willemsens, J. 48, 269, 349
Williams, R.M. 337
Williamson, D. 383–4
Wills, D.W. 39
Wilson, H. 414
Wilson, K. 251
Wilson-Fraser, S. 246
Wood, C. 276
Woods, D. 268, 343
Wootton, L. 207, 389
Wright, M. 37, 56, 276
Wynne, J. 30, 40, 296, 314, 339, 345
Yaniv, S. 159
Yoshida, T. 278
Young Mediators' Network 128
Young, R, 42
Youth Justice Board 34, 83, 90, 144, 145
Zehr, H. 31–2, 38
This comprehensive guide provides an accessible introduction to the philosophy of restorative justice and its practical application in a wide range of settings, showing how it can help both victims and offenders when harm has been done.

Drawing on many years’ experience of working in victim support, probation, mediation and restorative practices, Marian Liebmann uses pertinent case examples to illustrate how restorative justice can be used effectively to work with crime and its effects. Also included are sections on confronting bullying in schools, dealing with sexual and racial violence, tackling antisocial behaviour and community reconciliation after war. Whether in the context of families, schools, communities, criminal justice or prisons, the author argues that restorative justice is a ‘seamless philosophy’ which can be applied flexibly to meet diverse needs. Liebmann provides an international outlook, examining how restorative justice is practised around the world, including traditional Maori and Aboriginal approaches.

Restorative Justice: How It Works is a key reference for magistrates, social workers, probation officers, Youth Offending Team workers, police, teachers and health professionals, as well as the lay reader.

Marian Liebmann has worked in education, art therapy, victim support and probation, and for seven years was director and projects adviser of Mediation UK. She has written and edited nine books in the fields of art therapy, mediation and conflict resolution, including Mediation in Context, Arts Approaches to Conflict, and Art Therapy with Offenders, also published by Jessica Kingsley Publishers. She currently divides her time between freelance restorative justice, mediation training and consultancy, art therapy and writing.