

RESTORATIVE JUSTICE AND PRACTICES

Restorative Justice

The Basic Tenets of Restorative Justice are around: *Harm and Relationships*.

When contrasting an Adversarial with a Restorative style we find the language differs:

Adversarial:

- “What happened?”
- “Who’s to blame?”
- “What punishment is needed?”

Restorative:

- “What happened?”
- “What harm resulted?”
- “What needs to be done to make things right?”

There are several definitions of Restorative Justice worldwide, none universally accepted, though the most widely accepted and used is:

Restorative Justice is a process whereby those most directly affected by wrongdoing come together to determine what needs to be done to repair the harm and prevent a reoccurrence.

- “Restorative Justice is a philosophy and ought to guide the way we act in all our dealings”
- “Justice means - ‘justice’ for all in any circumstance”

Braithwaite’s Hypothesis

Effective restorative justice and practices foster awareness of how others have been affected by inappropriate behaviour. This is done by actively engaging participants in a process which separates the deed from the doer allowing participants to make amends for the harm caused.

In his book “Crime, Shame and Reintegration” John Braithwaite tells us (in shorthand):

Restorative Justice and Practices allow:

- **The act (unacceptable behaviour) to be rejected because they failed to meet expectations or standards**

Whilst:

- **Acknowledging the intrinsic worth of the person and their potential contribution to society (the community, school, workplace, etc.)**

Every instance of wrongdoing or conflict is seen as an opportunity for learning and can be addressed either informally through the conversational use of key questions or more formally through a restorative conference.

Our experience within the organisations that form the International Institute for Restorative Practices (IIRP) over the last three decades and in particular the last decade in respect of Restorative Justice; led us to realise that a discreet one off restorative intervention in the form of a Family Group Conference (FGC), Victim and Offender Mediation (VOM) or Restorative Conference (RC) is only one form of restorative response.

In many cases this is all that is needed, whilst in others a more long term and comprehensive restorative approach is required or at least desirable.

Restorative Practices

The IIRP defines five main strands of restorative practices on a continuum as follows:

Affective Statements which are brief comments about how others were impacted by the person's behaviour.

Affective Questions which are one step further, asking the wrongdoer questions like who was affected, how they were affected, etc.

Small Impromptu Conference where you bring together a few people to talk about the incident, its impact and what to do next

The Large Group or Circle which allows everyone to have some say in what should happen as a result of the wrongdoing and...

The Formal Conference which involves more planning and preparation and tends to be more structured and complete.

The full Restorative Conferencing model sits at the formal end of the informal to formal Restorative Practices Continuum and is largely used in cases where responsibility has been accepted and harm acknowledged.

Restorative Conferences have been used for many different purposes over the last decade. Some have been cases involving full acceptance of responsibility and acknowledgement of harm caused, whilst others have not. Some have involved all parties to the incident whilst others have provided a service to one or the other party and their respective supporters.

It is not always appropriate or necessary to hold a full conference for all incidents and in fact the use of restorative practices at all levels, from informal through to formal is to be recommended.

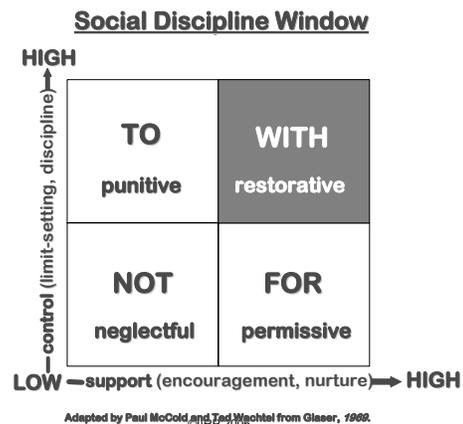
When Restorative Practices and language are imbedded into the way we deal with all conflict and inappropriate behaviour we are most likely to make a difference in the lives of those harmed and affected and the lives of perpetrators too.

Restorative Practices as defined by the IIRP have four key elements which make them explicit rather than implicit. These are:

1. **Social Discipline Window**
2. **Fair Process**
3. **Free expression of Emotions**
4. **Relational (Restorative) Questions**

1. Social Discipline Window

Restorative Practices are about working WITH people rather than doing things TO or FOR them. It is about offering High levels of Support, whilst challenging inappropriate behaviour through High levels of Control, encouraging acceptance of responsibility and the setting of clear boundaries.



2. Fair Process

Kim & Mauborgne, in their article 'Fair Process: Managing in the Knowledge Economy' for the Harvard Business Review in July – August 1997 described Fair Process as having three core elements:

1. Engagement – 2. Explanation – 3. Expectation Clarity

Principle 1 - Engagement: Involving individuals in decisions that affect them by asking for their input and allowing them to refute the merit of one another's ideas.

Principle 2 - Explanation: Everyone involved and affected should understand why final decisions are made as they are. Creates powerful feedback loop that enhances learning.

Principle 3 - Expectation Clarity: Once decisions are made, new rules are clearly stated, so that everyone understands the new boundaries and consequences of failure.

What Fair Process Achieves:

- Fair process builds trust and commitment which
- Produces voluntary co-operation, which
- Drives performance, which
- Leads individuals to go beyond the call of duty by sharing their knowledge and applying creativity.

Fair Process then, is about interacting **WITH** others and allowing them to tell their stories in a way where they are heard and treated with dignity and respect.

3. Free Expression of Emotions

If participants are going to reach a shared understanding and feel the process is fair, then within a safe environment with clear meeting protocols around dignity and respect, they need to be free to express all of their emotions (or affects), including those emotions which are negative.

Don Nathanson pioneered work in the Psychology of Affect that helps us better understand why human beings act or respond the way they do. In his book "Shame and Pride", Don Nathanson builds on the work of Silvan Tomkins, who developed the Psychology of Affect. According to this theory, there are nine innate affects (or emotions). Most affects are experienced within a range from mild to strong.

- Two of them are **positive**:
 - Interest - Excitement
 - Enjoyment - Joy
- One is **neutral** and operates as a restart mechanism:
 - Surprise - Startle
- Six are varying degrees of **negative**:
 - Distress - Anguish
 - Disgust
 - Dismell (when something is physically or emotionally revolting)
 - Fear - Terror
 - Anger - Rage
 - Shame – Humiliation

‘Shame’ is nothing but the interruption of one of the positive affects. Anytime one of those affects is interrupted, we will experience varying degrees of ‘shame – humiliation’. It cannot be avoided. We can however, minimise the negative aspects of shame.

“Compass of Shame”

The Compass of Shame was developed by Don Nathanson and he said there are 5 ways people respond to shame – four are negative, one is positive. Nathanson organised the four ways into something he called the Compass of Shame. These are the four **negative** responses:

- **Withdrawal** – isolating oneself, running and hiding
- **Avoidance** – denial, drug and alcohol abuse, distraction through thrill seeking
- **Attack others** – ‘turning the tables’, blaming the victim, lashing out verbally or physically
- **Attack self** – self put-down, masochism

Compass of Shame



18

We take time to talk about the negative ways people deal with shame because, when we see these responses in other people, we can recognise them for what they are; expressions of shame. Strange as it may seem, it is a kind of admission that they’ve done something wrong. Once we’ve recognised what this reaction actually is, there are things we can do to help them deal with their shame in a positive way.

Some of the positive ways you can deal with shame are to talk about it, apologise, admit the wrongdoing, make amends and express feelings. All of these things are restorative ways to handle shame in a way that does not become toxic to the group. In your community, you probably notice those negative shame responses all the time (*with work colleagues, clients, students, parents etc.*).

Healthy communities are the ones that learn to deal with shame in a positive way. The important thing is to recognise the responses because there are positive ways we can respond to help people work through their shame. We can respond to others experiencing shame by:

- **Listening to what they have to say**
- **Acknowledging their feelings**
- **Encouraging them to talk about their experience**

These are the key steps needed to build and maintain healthy relationships, according to Silvan Tomkins.

Tomkins’ ‘Blueprint’

Tomkins’ ‘Blueprint’ for Individuals proposes that Individuals are at their best when they:

- **Maximise positive affect** (or emotions)
- **Minimise negative affect** (or emotions)
- **Freely express emotion**
- **Do as much of the above three as possible**

4. Restorative Questions

The scripted conferencing model based upon relational and restorative questions is an internationally tried and tested process which delivers all of the elements of Restorative Practices.

Restorative Questions 1

To respond to challenging behaviour:

- **What happened?**
- **What were you thinking about at the time?**
- **What have your thoughts been since?**
- **Who has been affected by what you did?**
- **In what way have they been affected?**
- **What do you think you need to do to make things right?**

Restorative Questions 2

To help those harmed by others actions:

- **What did you think when you realised what had happened?**
- **What have your thoughts been since?**
- **How has this affected you and others?**
- **What has been the hardest thing for you?**
- **What do you think needs to happen to make things right?**

Conclusion

So to re-cap - For Restorative Practice to be explicit, they must actively integrate:

1. **Social Discipline Window**
2. **Fair Process**
3. **Tomkins Blueprint**
4. **Restorative Questions**

We hope this short overview has raised your awareness, interest in and knowledge of Restorative Justice and Practices and we wish you every success in your endeavours to embrace and implement such practices in your own field.

To find out more about Restorative Practices and or the IIRP visit our websites at:

**www.iirp.org/uk - www.realjustice.org - www.safersanerschools.org
www.goodcompanyonline.org - www.familypower.org**

Mail: P.O. Box 30, Todmorden, OL14 6LA
Tel: +44 (0) 1706 810201 - **Fax:** +44 (0) 1706 810201