



Webinar

with David B Moore and Alikki Vernon (Australia), moderated by Kerry Clamp (UK)

The reforming potential of restorative practices

Zoom, Monday 7 October 2024 10:00–11:30 (CET)

This webinar, hosted by the European Forum for Restorative Justice (EFRJ), presents key ideas from *Setting Relations Right in Restorative Practice* (2024), the inaugural text in the Routledge series *Contemporary Issues in Restorative Practice*.

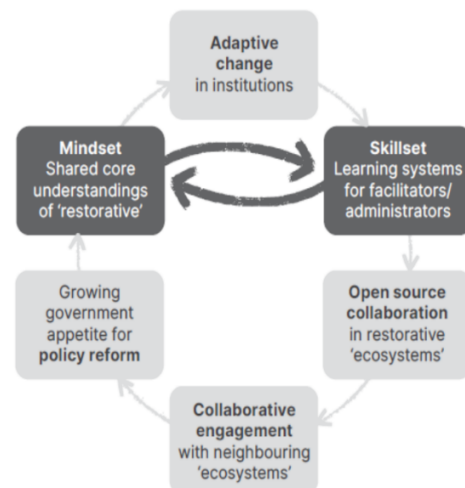
This summary serves as a preparation for webinar’s participants.

SESSION SUMMARY

The term *restorative practice* is used for a range of processes and techniques that support people to learn, to heal, and to work together to improve their circumstances. Restorative practice can *respond to harm with healing in justice system programs, manage relationships in educational and other communities, and link individual healing with institutional reform* – including reform of political institutions.

At this time when representative democracies are succumbing to polarisation, with slogans proposing simplistic answers to complex social challenges, lessons from restorative practice can also support democratic healing across multiple levels of government. Lessons on effective facilitation and optimal process format can help to increase citizen engagement, harnessing *the wisdom of the crowd* in citizens assemblies to develop socially acceptable and appropriately complex responses to complex challenges.

The *potential* and *need* for restorative reform are great. Yet a *vicious cycle* of mutually reinforcing factors seems to thwart reform. The opening chapter of *Setting Relations Right* identifies elements of this *vicious cycle*. The final chapter identifies elements of a counterpart *virtuous circle*:



Figures from chapters 1 and 6 of *SRR*





The 'flywheel' to create-and-maintain momentum for reform in this social movement seems to be the **coevolution of theory** (mindset) and **practice** (skillset). The book outlines how restorative *facilitators* – and program *administrators* and *evaluators* – can be supported to consolidate and extend their foundational skills through a system for learning on-the-job: a form of **apprenticeship**.

This effective learning system is based, in turn, on foundational **distinctions** between:

- knowing *about* and knowing *how to*;
- disputes and *conflict*;
- principles, programs, and *processes*;
- program *administration* and process *facilitation*;
- programs of restorative *justice*, restorative *practices*, and restorative *engagement*;
- the habits that guide actions of individuals, partners in dyadic relationships, and the members of groups, organisations, cultures – and *social movements*.

The book describes how work informed by these **distinctions** can help to:

- integrate *trauma-informed- & restorative practice*;
- link *primary, secondary, and tertiary* prevention to improve *regional service-delivery*.

Trauma-informed and restorative practice share the same essential practical theory:

a narrative account of *what has happened* can reveal *meaning* – and especially the origins & *underlying logic of rules-&-routines or habits*.

Setting Relations Right opens with a brief narrative of the *social movement* for restorative practice, including the origins of some *habitual ways of thinking and acting* within that movement, then outlines the core skillset of restorative practitioners, which has been developed-and-tested over several decades across a wide range of restorative programs.

PRINCIPLES

The authors distil the core *principles* of *restorative practice* as:

- **Doing no further harm**
- **Working with people** (rather than *doing things to or for* them)
- **Setting relations right** (by supporting learning, healing, & wellbeing)

Setting relations right can mean that relationships in a social network are:

- "**restored**" [to something positive];
- **deepened**;
- "**neutralised**" [and so no longer involve intense conflict];
- **formally ended** [and so become effectively *non-existent*]; &/or
- **established** [between participants meeting for the first time]





PROGRAMS

The authors distinguish programs of:

- **Restorative Justice:**
which involves responding to **harm** with **healing** (in *justice system* programs);
- **Restorative Practices:**
processes & techniques that help to **build, maintain, deepen, & repair** relations in **communities**: including schools, workplaces, extended families, and so on;
- **Restorative Engagement:**
a process in **Redress Schemes** to link **individual recovery & institutional reform**.

The common element across these different types of programs is the use of **facilitated processes**, typically convened in a circle format, that support participants to reach (i) a *shared understanding* of current circumstances, then (ii) some *agreement* on how to improve those circumstances.

Restorative Justice programs use slightly different **criteria** for *referral* to a restorative process at different **stages** of the criminal (or civil) justice system:

- diversion *away from court* by community &/or **police**
- sentencing support *in court*
- setting relations right *after court*
- planning *before release* from **corrections**
- community support *after release* from **corrections**

Restorative practices can be understood less as '*another new program*' and more as a continuous exercise of **reviewing, fine-tuning, & aligning the communication practices** used to **manage relationships** in a community.

Restorative practices can be understood as a system for improving the ways in which people provide each other feedback, converse, mediate the conversations of others, and facilitate meetings among larger groups. The most familiar applications of restorative practices have been in schools and other workplaces – but the same general approach can be applied in any community. A system for **improving communication systems** requires a system for **learning-by-doing**, so implementing restorative practices requires that some individual or group is responsible for **coordinating** this learning system.

Restorative engagement is typically provided as a *program-within-a-(larger)-program* or scheme that provides redress to a group of people harmed within &/or by an institution.

The essential rationale for restorative engagement is that many people who have been harmed *within and/or by* an institution sense a connection between healing their own complex harm, improving relations among their community-of-care, and seeing evidence of reform of the institution-associated-with-the-harm. People in authority cannot *deeply* understand what happened and the impact of what happened, without *engaging directly* with those-who-have-been-harmed.

The Australian **Defence Abuse Response Taskforce (DART)** (2012–2016) developed the first **Restorative Engagement program**. The key design elements of the DART included:

- **Independent, external & impartial administration;**





- A *standard of proof of plausibility*, which is lower than the standards used in criminal and civil courts, and so allows for administrators to assess the eligibility of those seeking support from the scheme;
- A **redress package** consisting of three elements:
 - a one-off financial *reparation payment*;
 - **therapeutic** support [counselling / wellbeing services];
 - A process of **restorative engagement** between a person-harmed in &/or by the institution, and a senior manager who takes responsibility for *understanding* and acknowledging what happened, then for identifying the lessons from that experience and doing something with those lessons.

A restorative engagement conference works, in a logical order, through each of the **elements of an effective apology**: *recognising* what happened and the harm caused; seeking to understand the *reasons* why it happened and caused that harm; accepting *responsibility* to address the harm; expressing sincere *regret*; then considering appropriate *redress*, and what still needs to be done, to prevent recurrence. Within a program of redress, this process effectively *decentralises* learning-and-healing in each individual case. However, the host *program* can then 'recentralise' learning, by capturing lessons from individual cases and distilling these into *collective* lessons for systemic institutional reform.

The goal of linking healing at individual, institutional, and systemic levels is consistent with core restorative principles: *do no further harm*, and *work with others to set relations right*. The principle of *setting relations right* involves a quest for peace, *with* other people, but also *within* oneself, and with *entities* that have caused harm. The ideal result is a virtuous circle of mutually supportive individual recovery and institutional reform. The systematic application of these *restorative* principles in the DART demonstrated how a restorative process can support this *transformative justice* of systemic change. Several other redress schemes have since replicated the essential elements of the DART, including that tripartite redress package including the option of restorative engagement:

- A Defence Restorative Engagement program was re-established, at the conclusion of the Taskforce in 2016, within the Office of the Commonwealth Ombudsman.
- A National Redress Scheme (NRS) (2018-)
- [with *restorative engagement* renamed a *Direct Personal Response*]
- The Victoria Police Restorative Engagement & Redress Scheme (2019-)
- Ambulance Victoria
- Mothers subjected to forced adoption
- Care leavers [who were in institutional care as children]
- Members of the Stolen Generations (2022-)
- [with *restorative engagement* renamed *Personal Acknowledgement*]
- The Australian Sports Commission: Elite Sports (2022-)
- Services Australia after 'RoboDebt' (2023-)
- [an in-house program with *restorative engagement* renamed *Listen to Learn*]





PROCESSES

The second chapter of *Setting Relations Right* explains **four different group conference formats**, all informed by the same core practical theory. Each format addresses distinct circumstances, namely:

1. **An incident** of undisputed harm
2. The legacy of **a sequence of poorly resolved incidents** &/or issues
3. Some complex issue of **common concern**
4. The legacy of **harm caused in &/or by an institution**

The first format is the most widely used in restorative *justice* programs, the second and third formats are most widely used in restorative *practices*, and the fourth format is used as restorative *engagement*, and primarily in redress schemes. All these types of **group conference** can:

- bring together a **network of people** who can provide *insight, support & oversight*
- involve those *people* in "**sense-making**" & "**agreement-making**"
- through sense-making or *truth-telling*: **transform conflict into cooperation**
- harness that *cooperation* to develop a pragmatic *agreement* to:
 - *respond* with authority to harm,
 - *prevent* further harm, &/or
 - *promote* healing and well-being;
- **coordinate** "community" & "official" support & oversight

Programs offering the restorative process of a group conference provide *administrative* guidelines on *standard specific actions* required in **every case**. But since every case is different, restorative **facilitators** need more than administrative guidelines.

To guide the *variation* required to set *relations right* in **each case**, facilitators must also follow **general principles**. The third chapter of *Setting Relations Right* outlines in detail the principles and core skills that restorative **facilitators** use to *diagnose* each case accurately, *define* the best process to address it, *prepare* participants, *ask questions* so that each participant can relate their experience effectively, *negotiate* an agreement that supports all participants, and engage in *reflective practice*, which supports participants to follow-through on agreements and professionals to learn from experience.

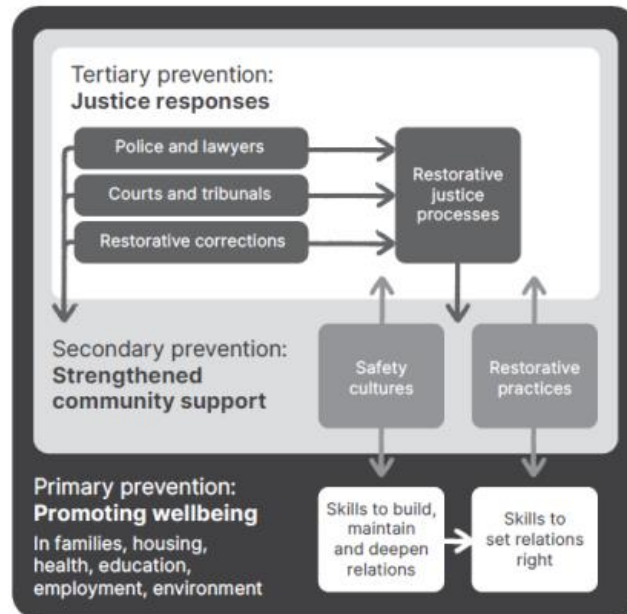
Coordination across services enables a group of colleagues from different agencies to learn these same core skills on-the-job through an **apprenticeship**, which starts with solid foundational training, followed by learning-by-doing, on-the-job, so that they do no further harm, and work with community members to set relations right. The core elements of effective regional service reform are thus to:

- **coordinate the strategy** of government- and NGO agencies that provide services across the region, so that these agencies do not work at cross-purposes, and instead *work together*, and at times even *work as one*. When agencies share a clear understanding of how restorative practice work and what they can achieve, key decision-makers can identify relevant cases and refer them to the right restorative service provider.
- **build the capacity** of individual workers, and work teams, in government- and NGO service-providers, so that workers support each other effectively, as they support community members to build relationships, responsibility, and respect.





Justice reinvestment can then be a side-effect of regional services reform, as represented visually in chapter four of *Setting Relations Right*.



EVALUATION

There have been many evaluations of programs that use some form of group conference. The **first randomised trial** of group conferencing in restorative justice was conducted in the Australian Capital Territory (ACT) from 1994 – 1999. It was followed by a total of ten **randomised trials conducted** in the UK from 2001 – 2013.¹ These evaluations all produced much the same basic findings: Yes, group conferences **do** prompt significant positive **behavioural changes**, including:

- *healing* for all those who have been harmed
- *decreased reoffending* by people who have caused harm, and:

Group conferences **are** appropriate in cases involving:

- **adults** who have caused harm
- **violent crimes** and more **serious property crimes**.

These findings, and related evaluations, informed the following succinct summary from the Australian Institute of Criminology in 2014:²

Where restorative justice is done well, it goes beyond what traditional responses can achieve and as a result, the potential impact upon individuals, communities and society is substantial. Restorative justice is about more than traditional notions of justice—it is about repairing harm, restoring relationships and ultimately, it is about strengthening those social bonds that make a society strong. Rather than pitting restoration against retribution and seeking to find the 'best'

¹ Sherman, L.W., Strang, H., Mayo-Wilson, E. et al. 2015 'Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review' *Journal of Quantitative Criminology* vol. 31

² Joudo Larsen J 2014. *Restorative justice in the Australian criminal justice system. Research and public policy series no. 127*. Canberra: Australian Institute of Criminology.





*answer to addressing offending, restorative justice practices can be **both 'an alternative to, or an extension of' traditional responses to criminal behaviour (KPMG 2010: 17).***

*Perhaps in another decade or so, when the next review of restorative justice in Australia is compiled, debate and research in the area will have moved away from questions of 'does it work' to focus on **how, when and for whom it works best.***

Some important research on **how the process works** was already underway at this time in a key Australian state-wide program. Researchers from Swinburne University in Melbourne used **life-course methodology** to identify **what factor in a group conference most causes behavioural change**:³

The Swinburne study tracked 800 Victorian Children's Court cases between 2012 – 2018 (with a control group of 1500), and again found that **YES**, group conferencing prompts *significant* positive behavioural **changes** AND *is* appropriate in cases involving **violent crime & more serious property crime**. Importantly, the Swinburne study also found that:

- the **sentence** received from court does *not* predict recidivism;
- recidivism is most reduced when primary *and* secondary victims *attend together*...AND it is *still reduced* when **secondary victims** attend *in the place of* a primary victim;
- recidivism is reduced when the police officer *actually-involved-with-the-case* attends.

All these findings strongly suggest (or confirm) that:

- Involving **communities-of-care** in the process is the factor that most **transforms conflict into cooperation**;
- Tin short: the **most significant change occurs at the level of the group**.

Similar findings are emerging from recent evaluations of group conferences used for more complex cases, including family violence. This work requires highly experienced convenors, and highlights the need to provide them with skilled clinical supervision.⁴

Evaluating restorative *practices* and restorative *engagement* is more challenging: it requires more detailed evaluation of the *program* and sometimes also evaluating *multiple processes*. *Setting Relations Right* distils, categorises, and links evidence about these programs from a range of sources: (i) external and in-house *formal evaluations*, (ii) large-scale *anecdotal evidence*, (iii) *natural experiments*, where different programs and jurisdictions collectively suggest optimal arrangements for program administration and process facilitation, and (iv) emerging *consensuses from related fields*.

For example, well-facilitated **group conferences** convened **post-sentencing** have been shown to produce sustained therapeutic recovery for participants.⁵ **Restorative engagement** conferences have a similar dynamic – for which the reason only became clear in retrospect. In an institutional context, the person who can *make the most* from lessons of experience is a senior manager with the authority to effect institutional change. An emerging consensus in the literature on *trauma and*

³ Bonett, R.J.W., Lloyd, C.D., & Ogloff, J.R.P. (2022) *Group Conferencing Effects on Youth Recidivism and Elements of Effective Conferences* Centre for Forensic Behavioural Science, Swinburne University of Technology, Melbourne, Australia

⁴ Lawler, S. Boxall, H. & Dowling, C. (2023) *Restorative justice conferencing for domestic and family violence and sexual violence: Evaluation of Phase Three of the ACT Restorative Justice Scheme*, Canberra: Australian Institute of Criminology

⁵ Bolitho, J. (2015) Putting justice needs first: a case study of best practice in restorative justice. *Restorative Justice*, 3(2)





recovery is that recovery from institutional harm requires the *truth and repair* provided by a restorative program that offers both a public *and* a personal apology.⁶

Evaluations of **restorative practices** across multiple schools indicate a reduction in distress on the part of students and staff, and a more harmonious learning community. Larger-scale evaluations highlight the foundational importance of a coherent and *publicly articulated philosophy*.⁷ These core lessons from school communities translate directly to other **workplaces**: mechanisms that give community members a voice, and engage them actively in continuous improvement, are consistent with principles of *dynamic safety*, which can make workplaces both physically and psychologically safer.⁸

The demonstrated efficacy of restorative programs and processes begs the question:

Why have programs of restorative justice, restorative practices, and restorative engagement still not been widely implemented?

- In the absence of pressure for *systemic change*, people working in large systems generally tend to keep *doing-whatever-they're-doing*. This is especially true of *functional monopolies* – organisations and systems that are not subject to competitive pressure to change adaptively.⁹
- Senior decision-makers and other potential reformers may comprehend the **principles**, *and* the rationale for operating a **program**, but cannot operate a program if restorative **processes** are not widely- or well-understood.
- To administer a *program* that delivers well-facilitated *processes* requires a particular understanding (*mindset*) and a *skillset* in both **administration AND facilitation**.
- Acquiring *facilitation skills* requires an **apprenticeship**, starting with foundational training based on accurate practical theory, and continuing with regular opportunities for reflective practice.
- To develop a common *mindset* and *skillset* among a group of *facilitators* requires **coordination across units &/or services** – ideally supported by **communities of practice**.
- Program *administrators* and *evaluators* can benefit from similar coordinated support for systemic learning among colleagues.
- An **emerging network of skilled practitioners** can maintain momentum to create a healthy ecosystem of restorative practice.

An earlier version of these summary notes was prepared for the Mint House, Oxford.

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See also the website for the Australian Association for Restorative Justice.

⁶ Herman, J. (1993/2015) *Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror*; (2023) *Truth and Repair: How Trauma Survivors Envision Justice*

⁷ Reimer, K.E. (2019) *Adult Intentions, Student Perceptions How Restorative Justice is Used in Schools to Control and to Engage*,

⁸ Dekker, S. Oates, A. & Rafferty, J (2022) *Restorative Just Culture in Practice: Implementation and Evaluation*

⁹ Market, state *and* third sector organisations can all function as near-monopolies, albeit with the different causes of (i) market dominance, (ii) state-granted authority over policy-and-practice, or (iii) guaranteed grant-funding.

