

Developing Restorative Practices in Schools: Flavour of the month or saviour of the system?

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Abstract

A team at Waikato completed two projects on restorative conferencing in schools for the Ministry of Education, under the rubric of the Suspension Reduction Initiative. The projects included developing and trialling processes for suspension hearings using restorative conferencing and principles from restorative justice. Objectives of both projects were related to the desire to reduce numbers of suspensions and exclusions, particularly of Maori children. This paper reports on these two projects, and reflects on some of the questions they raised.

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Aotearoa New Zealand has a long tradition of restorative justice and related practices. Maori have engaged in hui style meetings to resolve conflict for as long as many can recall. More recently in the late 1980s, taking a lead from Maori, Family Group Conferences became part of the legal process available to the then Department of Social Welfare for resolving issues for youth and their families. This in effect mandated hui-like processes into law in relation to child welfare and also youth justice. More recently again there has been a huge growth of interest in the use of restorative justice, not only for youth but also in the adult courts (Morris & Maxwell, 2001). Rising interest in restorative justice has been fuelled at least in part by the exponential increase in numbers being imprisoned. This has coincided with a growing climate of concern for the victims of crime. In New Zealand a four-year pilot is currently in progress, trialling the use of conferencing using restorative justice principles for referrals from the adult courts. In Australia and the United States of America, academics and local authorities have developed and trialled their own processes. Canada has a history of trials and implementation almost as long as ours. Further pilot projects are being mandated in the UK at the time of writing. It is clear that restorative justice is an idea whose time has come.

Interest in restorative conferencing in schools has to some extent paralleled the trajectory of interest in restorative justice in New Zealand: a huge increase in numbers of suspensions and concern about the fate of young offenders, combined with high rates of truancy and concern about school discipline in general are all part of the mix. To begin with it was hoped that the introduction of conferencing in schools would lead to a reduction of suspensions. However, the implications of introducing restorative justice-like processes into schools remain unclear, but they are likely to be far-reaching. This paper discusses some developments that are introducing and adapting restorative justice principles and practices into educational contexts.

Two Projects

During 1999-2000 a team from the University of Waikato worked on a pilot project, funded by the Ministry of Education, to develop a process for using Restorative Justice for Conferencing in schools around the Waikato. The Trial project became part of the Suspension Reduction Initiative (SRI), a nation wide initiative from the New Zealand Government, through the Ministry of Education (MOE), which aims to reduce the numbers of students being suspended from mainstream secondary schools.

The intention of our first project was to try to keep students in schools, rather than suspending them. We named this project (and that process) Te Hui Whakatika. The numbers of students being suspended from secondary (and primary) schools had been rising exponentially throughout the country. Maori students, especially Maori boys, were over-represented in numbers suspended. Our project was in some ways an outgrowth of the work of Judges M. Brown, McElrea and Carruthers, who had written and spoken publicly about their concern about the numbers of young people coming before the courts (Brown, 1993; McElrea, 1996). The Waikato project picked up on their ideas about the probable value of using restorative justice principles for young people in schools. We

melded those ideas with some ideas from Maori hui-making, and also with ideas about narrative therapy and respectful ways of speaking taught in the Counselling Programme in which some of us are teachers.

Conferencing had of course been used for some time by the Department of Child Youth and Family Services as the Family Group Conference, and this history too informed our work. In our first project, we worked with five schools with very different characteristics, who implemented the ideas in very different ways. The Project was evaluated by a team from The University of Auckland, who found that there was substantial satisfaction among participants with the process (Adair & Dixon, 2000). Recommendations of this Report included the appointment of designated persons to facilitate conferences and the need to describe clearly and make resources available to follow up on the proposed outcomes or restoration plan.

In our second project we worked with key people from 29 schools designated under the SRI in Northland and Auckland. The Waikato team undertook a 15-week project that ultimately would span three semesters, from August 2001 until April 2002. There were three phases to the second project. In Phase One we went around the schools and talked with designated key persons about what they believed were the reasons for the escalating numbers of suspensions, and secondly, what they thought could be done about the problem (if they saw it as such). In Phase Two we developed a web site for the schools in the project, aimed at developing a network of schools wanting to use restorative practices, and at sharing resources. Phase Three was a series of two day training workshops with key people from each school, in which we discussed the use of language in schools and demonstrated the conferencing process developed in our first project. The most important development in this project was our realisation that the process of the formal conference could be used in a variety of purposeful conversations: we taught participants a simple outline of a conversation process that works for “deans’ conversations”, classroom conferencing, and formal conferencing.

Some outcomes from the Trial

Although the conferencing work was certainly powerful, we had not found any definitive answers to how the conferencing process works, and might work better still. However we thought that we had learned quite a lot from the first trial with the five schools, and we were keen to develop our ideas further.

Some primary considerations from the trial were the following:

1. Each school introduced the process differently, and adapted it to their own style and ways of doing things.
2. Different personalities in positions of responsibility can make a huge difference to the success or otherwise of the school’s commitment to the process.
3. Many parents and caregivers who participated said they had never had such a meaningful conversation with the school.
4. Teachers were sometimes reluctant to participate, but of those who did, most had an eye-opening (and in some cases a career-changing) experience.

5. The time taken to organise, execute, and follow up from a conference is significant.
6. In spite of what we thought significant efforts to explain what we were trying to do, there remained substantial pockets of misunderstanding.
7. Embracing the principles of restorative conferencing bridges and creates a link between the student support and the disciplinary systems in a school.
8. The involvement of the community of care around the young offender was central to success of a conference.
9. Different schools have different levels of connection with their communities.
10. When a school decides to do conferencing there seems to be an inevitable implication for the entire culture of the school.
11. Conferencing usually comes too late if it is implemented when a suspension is imminent, particularly for continual disobedience.
12. There is much that could be done to research the elements of the restorative conversation process we have devised.

We proposed that the work of the second project would be about more than conferencing; it would be about *restorative practices*. In retrospect, although they agreed with our proposal for a more participatory, action research project, both the MOE and the schools were primarily focused on learning how to use our process. The question of how it worked, and under what conditions, was not their focus. For our part, we were very interested in working with schools to understand and develop the conversational process, and we were perhaps not sufficiently clear about the distinction between formal conferencing and using the process for disciplinary conversations in schools. For us, the second project was more about what restorative practices might be, and what they might mean for schools. We relished the possibility of working with people in so many schools to think about the problem of how these practices could be made even more useful in helping reduce suspensions of Maori students. With the time and resources available, we could only begin to invite school staff to consider the process. To achieve our broad aims, the project needed to go through several further phases, which would have been a lot more expensive, and did not materialise. Some schools went on to pay for private professional consultancy. The September/October 2003 newsletter of the court-referred restorative justice project, *Te Ara Whakatika*, quoted Stuart Newby, Head of Guidance at Massey High School, as saying that the process they are using is “probably the most potent process [he has] seen for facilitating change in kids”.

A precise assessment of the success or otherwise of the Suspension Reduction Initiative is not possible, because in 1999 new definitions were coined, and Stand-down is now the name given to temporary suspensions which result in the student returning to school. In fact, it was our understanding that many schools were working to reintegrate their “errant” students, and the original notion of the suspension hid this important point. According to a recent Ministry Report, secondary schools participating in the Suspension Reduction Initiative have succeeded in reducing the suspension rate for Māori students from 76 per 1,000 in 2000 to 48 per 1,000 in 2002 (Ministry of Education, 2003). Although both stand-downs and suspensions have reduced or remained steady in schools participating in the Suspension Reduction Initiative (SRI), male, Māori and 14 year old

students continue to be over-represented in stand-down and suspension statistics compared to the population in general. Over all schools, Māori males were stood-down at a rate of 65 per 1,000 and suspended at a rate of 21 per 1,000 in 2002. The peak age for stand-downs was 14 years (80 per 1,000) (Ministry of Education, 2003).

Restorative Justice in Schools

The notion of restoration in this context derives from the more general interest in restorative justice and the use of conferencing in restorative justice. These links with Justice, and the use of what has come to be called restorative conferencing in relation to suspensions, suggest that what we are doing here is centrally concerned with the school disciplinary system. However, rather than locating restoration in law, discipline and justice, we are keen to see such practices as inviting the development of links between the disciplinary practices and pastoral care and student support functions in the school.

The restorative model of justice views crime as an interpersonal conflict between the victim and the offender that needs to be addressed (Zehr, 1990). Restorative justice is sometimes contrasted with retributive justice, which is the process whereby the crime is assessed and the offender punished in relation to the nature of the crime. However, it may still be the case that punishment or a related consequence is one of the outcomes of a restorative process: the point is that punishment is not the main objective. Where retributive justice defines crime as a violation against the state (or in this case, the school) restorative justice defines crime as the violation of one person by another. Proponents of restorative justice argue that the response to crime must begin where the problem begins, within relationships. Crime is not first an offence against the state or the school; it is an offence against people. It would be possible to suggest that the initial rupture is in the integrity of the person who exhibits such behaviours. Even if there has been no previous contact among those present, a crime brings a community of affected people together, and hence, creates relationship, but it may not be the kind of relationships that are preferred. The central goal of restorative justice is therefore the healing of the relationships damaged by the offence.

The notion of restorative justice challenges, to some extent, the adversarial mode of most legal processes (Zehr, 1990, 2002). It begins from a position of respect for those affected, including both the so-called victim – those affected - and the offender – the Young Person - and their communities of care. The objective of the restorative justice process is to offer an opportunity for the Young Person to make amends on a variety of levels – those affected, the community, self - and in the process to restore relationship. It is even thought to be possible to transform relationship through the conferencing process. Potent elements include dialogue, the skilled facilitation of the emergence of perspectives and the consequent creation of new meanings (Toews & Zehr, 2003).

Restorative justice defines crime as a conflict between individuals in which their relationship is at centre stage. Restorative justice focuses on the harmful effects of the actions of the offender on the victim. Accountability is no longer determined by an application of the law. The offender is required to meet the victim of his crime, to hear the full extent of the impact of the offending, and accept responsibility for his actions.

Victims are provided with an active role in assisting the offender to understand the effects of the crime on them. The parties themselves (rather than a “third” or non-affected party) determine what should happen to make amends. This represents a radical change to the way in which “justice” is delivered in criminal cases. It is a process that can transform disciplinary processes in schools.

Restoration is mostly about restoring connection through increased understanding – it is not necessarily about keeping kids in school or out of prison. While there are some suggestions in the literature that the process developed by the University of Waikato, together with other similar processes now operating around the country, may in fact achieve these outcomes, we do not support this Project solely because we want to stop kids from being suspended or excluded from schools. A school is a complex community that offers interesting possibilities for community- and nation-building. Of course, because it brings together (compulsorily) people from so many different cultural backgrounds and because it is a community focused on young people, with their families somewhat in the background, the school is a community that has very special characteristics as well. A school is perhaps more like a village based on an inter-tribal grouping, than a family. Yet each school has responsibilities for the nurture and development of its students that reflect parental responsibility in part. Of course, every school also has its own particular characteristics based on its population and geographical location. This is one reason why we do not think it is possible or desirable to prescribe an inflexible model for introducing and doing restorative conferencing in any particular school.

Restorative justice and school discipline

Restorative justice principles offer people in schools an invitation into a fresh way of thinking about school discipline. In the face of sometimes frequent frustration with difficult situations and on occasion serious misdemeanours, these principles open up space for some different ways forward. Our projects have explored some of the ways that these principles may be developed in practice. But let us for a minute consider the shifts in thinking promoted by and required for restorative justice in the context of school discipline.

In their responses to school misdemeanours and offences, schools have often tended to mirror what happens in the criminal justice system. School disciplinary systems are often quasi-judicial in nature. Just as in the criminal courts crimes are primarily thought of as offences against the state, in schools most offences are construed as offences against the school. In both cases, offences are considered more in terms of their challenge to the power of the authorities than in terms of any harm done to persons in the community. In both contexts victims of offences are valued mainly as witnesses who can help to uphold the power of the authorities. Any personal damage done to them is seldom considered a priority for restorative action.

Another feature of school disciplinary systems that mirrors the criminal justice system is the process of conceptualising problematic situations as the outcome of individual deficits of character. The focus of the disciplinary gaze is on the individual who is

required to face up to his/her responsibilities to the school or state authorities. Often persons are defined in totalising ways in the process and implicitly invited to form identity around their offences.

For more serious offences, criminal justice systems act to protect the majority of citizens by locking offenders up. In schools, the equivalent is to lock young persons out. By contrast, restorative justice shifts the focus of our thinking about offending. In order for it to work, more than just a grafting of a new technology onto existing systems is required. Some shifts in thinking need to take place. The primary shift required for restorative practices to be developed is a shift from thinking in terms of individual character deficits, individual responsibility and the like to an emphasis on relationships in the school community. If offences are seen as damaging to relationships rather than as personal challenges to the authorities of the school, then the path forward changes from satisfying the demands for retribution by authorities to restoring the damage done to relationships. In the process the position of the people primarily affected by an offence is altered. Their concerns and needs are given more prominence and their mana valued more highly. Young persons are required less to bow to authority than to take up responsibility to repair the hurts they have caused for those they have harmed. Meaningless punishments are favoured less than meaningful acts of restoration. Young persons are offered ways to address the harm they created rather than branded as deficient more or less permanently. At the same time the common binary distinction between “soft” therapeutic approaches to offending and “tough” retributive punishing approaches is rendered irrelevant. Restorative justice is neither of these. Rather it focuses on a definition of accountability that is situated in the relational context of the offence and seeks to address harm done in ways that will make an ongoing difference.

The current scene

In spite of the apparent success of our first Ministry funded trial, and the huge interest there has been from schools, there has not been a systematic introduction of restorative conferencing into schools. There is a wide variety of restorative justice conferencing and other similar processes currently on offer, some packaged more attractively than others. Groups of education professionals, such as school counsellors, have registered a strong interest in the “restorative” aspects of the process, and it seems that their enthusiasm is not easily stemmed. Staff in Senior Management tend to have varying attitudes to it: on the one hand there are so many ideas around that purport to cure the ills of education that it can be difficult to choose amongst them – or to believe all their claims. On the other hand, because many of the ideas put up for trial require long term implementation and evaluation, the research community is (understandably) often a long way behind in evaluating projects. Sometimes, too, the proponents of “solutions” are perceived to have a stake and therefore may be seen as biased – and so there develops a scepticism about the enthusiasm with which new ideas are presented. Calls for evidence-based practice are easy to make, and may even be desirable, but education is a very complex social science, and simplistic models of experimental scientific method will quite clearly not serve us well. Schools are constantly shifting and changing: at the same time there is a huge range of initiatives in progress and some schools have told us they are already on overload. They point out that it is often impossible to say with any certainty that one or

another intervention is *the* cause of suspension reduction - or any other effects for that matter.

Of course, these are not good reasons for not doing research or introducing new programmes, but such considerations call us to new and innovative ways of working. There has never been greater need for collegial collaboration between schools and the education research community. In the case of restorative justice processes in schools, there is a growing need for collaboration between the education disciplines, including educational psychology (and such initiatives as RTLB – Resource Teachers Learning and Behaviour), and our colleagues in the legal profession.

Broadening Implications

As our first project progressed it became very clear to us that the practices of restorative conferencing called upon the entire school community to examine its relational practices. For example, one of our early conferences ended among other things with the realisation that the school was not offering a safe environment. At the same time the relationships of the school to its Maori community were opened up by the process of the conference. Teachers and Deans ended up understanding more about the young man who was the initial catalyst for the conference, so that they also understood why he was constantly late, and why he often seemed to end up fighting. In other words, the original reason for the conference seemed to fade into a much broader canvas, and the Principal and other Senior Managers, some of whom attended the conference, were astounded at what they learned about their school. With much good will, they then set out to change what they had seen and did not like. (Of course this was not so simple!) Repeated experiences like these led the Team to suggest, as we have seen, that the processes offered here are not simply about conferencing – they are about *restorative practices throughout the school* - a more inclusive concept altogether.

The University of Waikato Restorative Practices Development Team is but one of many who are working for similar objectives. There are also many different processes currently being used that purport to be doing restorative justice. Different approaches to restorative justice emphasise different objectives, for example victim restoration, “integrative shaming” of offenders, or community empowerment (White, 2003). The process we developed recognises the increasing complexity of the diverse composition of most school communities. It also recognises that in many ways schools are already communities of care. We believe schools have a unique and powerful place in civic affairs. Our broader objectives were to offer a process for building and maintaining peaceful diverse and caring community, where it is possible for people who are very different from one another to live together harmoniously; and to offer an opportunity for the offender to make amends in ways that do not objectify or oppress any of the parties. These objectives are founded on the belief that respectful dialogue is ultimately the only peace-building option we have, and so we (all) need to learn increasingly effective ways of working towards peaceful coexistence. This includes the idea that both victims and offenders should have at least an opportunity to discuss the offence, and to consider ways to make things right. Thus restorative conferencing encompasses the idea that there could be many different voices in a carefully facilitated conversation about the offending.

The conference is not simply an opportunity for the official voice of the community or school authorities to speak and to adjudicate. It offers pathways to restoring the relationships that have been breached by the offence. Persons affected by an offence can benefit from the opportunity to confront the perpetrators of their victimisation, and in so doing both restore themselves to greater strength and offer an opportunity of redress to the offender. We believe that this kind of redress does much more to build a peaceful community than do punitive actions that succeed only in producing people who feel that they have little shared investment in their community or school.

Central to our commitment to developing Restorative Practices in Schools is the belief that the knowledge as to why the situation with escalating stand downs and suspensions exists, and the knowledge of what to do about it, is most likely to be found within the schools and their communities. As a university team we have been privileged to join with schools and their communities in conversations (and ultimately, work) that promotes practices of 'restoration' in schools. Restoration is a word that needs to be defined more carefully, but the centre of the idea of restoration is relationship. In schools, it is about relationships between people associated with schools, whoever they may be, including wha nau (extended family), parents, teachers, students, Senior Management, Board of Trustees (BoT) members, kaumatua (elders), the local marae komiti, and all people in the community of care around the school.

We are currently working with schools that have approached us: one has invited us to teach the process to their students, as well as to their staff. We are very happy about this, because it seems clear to us that embracing restorative principles, in the end, changes the ways we think about conflict and difference. One of the criticisms we have heard about our process was that we are "too purist". If you have read the article thus far you will probably understand what is being referred to here. Not only have we resisted a recipe book approach, preferring a developmental one, but also we believe that an interest in restoration implies something about how we all prefer to get along together. Yet we are unashamed of noticing that, if you want a very diverse community that is able to live and work together, (and if you accept that homogenisation is not an option), then we have little other choice than to learn how to develop and maintain dialogues that enable differences to be talked through in ongoing and re-cyclical ways. It is a massive revolution, not just in disciplinary practices, but in the ways we interact generally. And it would have important and far-reaching implications for the practice of education, signalling a shift from the certainty of being right to the uncertainties of managing diverse viewpoints. Whether the current popularity of restorative ideas will fade for lack of fortitude we shall have to wait and see.

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