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SUBMISSION TO LEGISLATIVE ASSEMBLY STANDING COMMITTEE ON EDUCATION, TRAINING AND YOUNG PEOPLE

RESTORATIVE JUSTICE IN YOUTH SETTINGS

1. INTRODUCTION

1.1 Definitions of restorative justice

Council's understanding of restorative justice is that it is a philosophy that focuses on building, maintaining and valuing relationships within a community, such as a school community. It is about "building communities of care around individuals while not condoning harmful behaviour – in other words holding individuals accountable for their actions."¹

Consistent with the overarching philosophy, restorative justice includes a range of practices designed to get individuals to take responsibility for their wrong doing and to work on repairing the resulting harm, including the harm to relationships. Restorative practices involve direct participation by both victims and offenders. Victims have an opportunity to have a say in how the situation will be resolved, and offenders get a full understanding of the consequences of their actions.

1.2 Scope of Council's submission

Parent organisations have a legitimate interest in behaviour management in schools, and more broadly in the way children and young people are socialised for their participation in civil society. In preparing this submission, Council staff have repeatedly been assured that restorative justice is not just another behaviour management tool, but a foundation for a learning community based on relationships.

Restorative justice represents a challenge to traditional models of student behaviour management that have focused on compliance, and punitive measures to deal with aberrant individuals. The cultural change involved in moving from a compliance model to a restorative model requires sustained effort and is generational in its scope.

This submission will largely confine itself to addressing the following items from the Terms of Reference:

- the development and implementation of programs in schools;
- programs to support young people and their families.

¹ Dr Brenda Morrison, *New Tactics to Deal with the Schoolyard Bully*, ANU Reporter, 30 March 2001, Vol. 32, No. 4

1.3 Council Policy

Council's current policy itself is cast in a "compliance" mode. However, restorative justice principles and practices within schools contribute to the development of education settings that are consistent with Council's policy as follows:

(K2. Student Welfare)

Premise

All children have the right to education within a setting that is free from tension, aggravations or violence or the threat of these.

Policy

Council supports the development of student welfare policies within each school that cover aspects such as bullying, harassment, prohibition of dangerous goods (e.g. fireworks, weapons) and encompasses behaviour management.

Council's policy also supports the broader aim of restorative justice, which is to educate students for their place in civil society, viz.,

(Introduction to Policy Document)

The government school is a socially important institution in which the children of the nation gain experience in, and a commitment to, living harmoniously with the full range of fellow citizens. It is in everybody's interests to maintain and enhance the quality and morale of the public system and to ensure that it carries out its central role in Australian education...

*(Children are) entitled to receive education, which shall be free and compulsory, at least in the elementary stages. **(They) shall be given an education which will promote (their) general culture and enable (them), on a basis of equal opportunity, to develop (their) abilities, (their) individual judgment, and (their) sense of moral and social responsibility, and to become useful member(s) of society.***

1.4 Evidence gathering

In preparing this submission, feedback about the implementation and effectiveness of restorative justice in ACT schools was sought from parents, teachers and members of school leadership teams with particular responsibility for the implementation of this philosophy.

It has also considered a limited selection of relevant literature, including a paper by Peta Blood entitled "*The Australian Context – Restorative Practices as a Platform for Cultural Change in Schools*".² Peta Blood has worked extensively in the ACT in assisting schools to implement restorative justice practices and her observations are considered particularly relevant.

² Peta Blood, *The Australian Context – Restorative Practices as a Platform for Cultural Change in Schools*, Paper presented at the XIV World Congress of Criminology "Preventing Crime & Promoting Justice: Voices for Change", Philadelphia, Pennsylvania, USA, August 7-11 2005

This submission will consider aspects of restorative justice that are particularly relevant to school settings, the benefits of the philosophy and some implementation issues.

2. ISSUES AND DISCUSSION

2.1 Scope of Restorative justice

As noted above, student behaviour management is a major concern of parents in schools. P&C Council can see the benefits of using restorative justice practices in schools as an approach to behaviour management, including bullying.

One of the teachers Council spoke to noted that restorative justice had been taken on board by some schools because there is not the range of alternative settings for students with behavioural problems any more.

At the same time, Council does recognise that restorative justice is more than just a behaviour management tool – it is broad philosophy and approach to relationships. A school principal, writing in an education journal in October 2005, commented on the implementation of restorative justice in his school:

“We...entered the project with the view that RJ was a student management process. We have since come to appreciate more fully that it is an all-encompassing philosophy of life.”³

As explained in Peta Blood’s paper, a school in which restorative practices are embedded is a place where relationships are integral to the education process and receive high priority in educational effort.

2.2 Benefits of restorative justice

Council notes that some schools, by implementing restorative justice practices, have experienced benefits for the school environment beyond behaviour management, eg increased co-operation in all relationships, a decline in detention and absenteeism, and increased student pride in the school. These benefits are outlined by the same school principal:

“RJ allows for individuals to choose to act appropriately. In a school setting this is invaluable and is the reason that we’ve seen a decline in the usual school negatives of detention, absenteeism and so on.

. . . RJ has had a direct effect on the standard of teaching and learning occurring in our school. Student self-esteem increases, the pride of students in their college improves, as does the pride they take in their academic achievements. Hence, both internal and external results have improved.

³ Gary Burrows, *Restorative Justice in Schools*, Professional Educator, Vol.4, No 4, October 2005, p.3

Staff are happier and more relaxed both in and out of classes. . . .We are in the business of happiness. Unhappy people – students or staff – cannot learn or work effectively. RJ has brought more happiness to our college.”⁴

Feedback received from a parent associated with a primary school where RJ has been implemented although not personally involved in conferences, is that the “school has a more positive vibe: less punishment, more affirmation.”

From our research and conversations with parents and teachers, Council can see that adopting an underlying restorative philosophy within a school, which focuses on building and maintaining relationships, has the potential to bring benefits that parents are seeking, particularly, improved learning outcomes for students and the development of skills for life.

These skills include problem solving, empathy, assertiveness, thinking about the impact of behaviour on others, taking responsibility for action and addressing the impacts, self reflection, building and valuing relationships, managing emotion, and working co-operatively. As one parent said, “it’s good for children to learn to deal with things in a non-confrontational, non-threatening way.”

In her paper, Blood cites research that has made a link between the traditional compliance model for the behaviour of children, and the ease with which paedophiles gain the cooperation of children. Thus, Blood demonstrates another positive outcome from giving young people some tools with which to consider their responses in situations of potential harm to themselves.⁵

Council points to the particular value of restorative justice in a school setting, in providing a strategy for students to continue to work with the relationships around them, even after a period of tension or breakdown. To a large extent, students must continue to work with other students and teachers from one day to the next, even when they have experienced problems in these relationships.

For those teachers interested in seeking student feedback, in the low-key mode of class circles teachers can seek feedback about matters of pedagogy: “That lesson didn’t go as I’d hoped. What happened? What would improve it?”

2.3 A spectrum of restorative practices

Council understands from the research that there is a spectrum or pyramid of restorative practices, from:

- a whole-of-school focus on everyday relationships;
- using the principles of restorative justice informally in everyday playground or corridor situations;
- “relational” meetings (modified conferencing); through to
- formal conferencing (where there have been situations of significant harm and disruption).

⁴ Gary Burrows, *Restorative Justice in Schools*, Professional Educator, Vol.4, No 4, October 2005, p.3

⁵ Peta Blood, *ibid.*, p.6

This offers scope for a phased implementation within schools, beginning with a focus on everyday relationship building, which would then lay the foundation for schools to use more formal conferencing approaches in situations when it was needed.

Council notes the strong link between the broad philosophy of restorative justice with the National Framework for Values Education in Australian Schools. For example, the Nine Values for Australian Schooling outlined in the Framework include “Respect (treat others with consideration and regard, respect another person’s point of view” and “Responsibility (be accountable for one’s own actions, resolve differences in constructive, non-violent and peaceful ways, contribute to society and to civic life, take care of the environment)”.⁶

2.4 A cultural shift

Peta Blood’s paper emphasizes the major adjustment in thinking that restorative practices require. Council agrees that the principles and practices of restorative justice will take time to embed within a school community, and that a whole school understanding is necessary.

Implementation will take time because it does involve a cultural shift from punishment, retribution and blame to a focus on restoring relationships and making amends. It also involves a shift from requiring students to comply to getting students to choose to act appropriately and take responsibility for their actions.

Not everyone will be comfortable with this cultural shift. Widespread anxiety about the seemingly “out of control” behaviour of many young people can lead to reactive responses of the punitive kind. One teacher commented that the experiences of his colleagues with restorative justice had made him skeptical about its effectiveness, because they felt it was too lenient towards the perpetrators of harm.

Also, we were told that some children who have been “victims” reported to their parents that the conference was a waste of time. It may be that these children were expecting retribution of a more punitive kind to be meted out. If the consequences of a RJ practice are not trusted by the participants, especially the person who was harmed, this may indicate a weakness in the implementation (not necessarily the principles). The RJ theory is that the person harmed is involved in deciding how things can be restored or put right.

For these reasons, restorative justice is an approach that needs to be discussed within the school community initially. School communities should decide whether they would like to take or try this approach. In order for it to gain the support of teaching professionals, they must feel supported by the local school and its community.

Parents need to understand the principles of restorative justice even if they do not follow them at home. As one teacher noted, after being exposed to the practices at school, children are starting use them at home. Also parents may be involved in conferencing and in the follow-up of agreements reached. For this reason, parent education must be key element of implementation.

⁶ Commonwealth of Australia, *National Framework for Values Education in Australian Schools*, 2005, p4

2.5 Effectiveness of Restorative Justice

Most of the teachers and professionals Council contacted who were involved with restorative justice or other relationship-enhancing programs, were positive about their effectiveness, saying that in 99% of cases they are successful.

One of the teachers Council talked with said that the application of restorative justice principles worked well in the playground. She also noted that the success of “relational” meetings, with 90% of students taking up the offer of a meeting. When these take place, the problems don’t recur with the same students in about 85% of cases.

The opinion was expressed by one parent in a school which embraced RJ training in 2005 that it seemed effective with younger children, but less so with older children. This may point to the need to consider how restorative justice works across different age groups.

Restorative justice has been implemented at North Ainslie Primary School, and attached to this submission is an article from P&C Council’s publication *Feedback* on their experiences.⁷

The quality of educational leadership in the school would appear to be critical to the effectiveness of RJ. One parent reported that the principal in his son’s primary school carries a lot of authority with the students, and that a culture of respect in the school has developed since the principal’s arrival. This parent was generally supportive of RJ, but was not able to separate its effectiveness from the general improvement in the tone of the school. The parent attributes this to the leadership team, which includes a deputy principal with significant credentials as a behaviour management specialist.

2.6 When restorative practices break down

There is a need to think about what to do in situations where restorative justice does not work or breaks, for example, where individuals decide they do not want to participate in a formal conference.

Parents from several different schools commented that restorative justice works with students who have a conscience, who have been raised with moral precepts at home. One parent commented that in her opinion it is also related to maturity, and that some young people might not develop empathy until much later. If maturity is a factor, then this is another reason for persisting with RJ practices even with children who don’t display empathy, in the hope that the principles will “sink in” at a later time.

An executive teacher stated that sometimes restorative justice alone is not enough to stop poor behaviour from recurring, for example, she notes that restorative justice doesn’t work with the small number of students with mental health issues or asocial students. With these students, a conference may be held, but it is mainly for the benefit of the complainant, because there are some students who are not sufficiently socialised to feel empathy. She noted that conferences are not held for some students because they wouldn’t be productive (the perpetrators are not socialised); or because co-operation from

⁷ ACT Council of P&C Associations, *Restorative Justice Empowers Students*, Feedback, March 2004, p3

the parents is not forthcoming. She estimated that 5% of the school population are not socialised enough to benefit from these processes, and another form of intervention is more suitable (such as Life Space Crisis Intervention).

2.7 Indigenous education

In its budget submission for 2006-07, Council called for continuing and increased support to improve outcomes for indigenous students. Supporting restorative justice practices in school may be of particular benefit given that they are being used in other settings involving indigenous youth. For example, a number of Aboriginal communities have been using circle sentencing in youth justice. Circle sentencing is:

“... an alternative sentencing process and involves taking the sentencing court to a community setting where Aboriginal community members and the Magistrate sit in a circle to discuss the offence and the offender. The circle will also talk about the background and effects of the offence and to develop a sentence that is best for that offender. Circle sentencing will involve victims of offenders as well as offender’s families and other respected community people.”⁸

The adoption of restorative justice in school settings would complement and enhance the benefits where these approaches are also taken in youth justice settings (for indigenous and non-indigenous students alike).

2.8 Cluster basis

One teacher noted that restorative justice is being implemented on a cluster basis in Calwell. All schools in the cluster have a curriculum of values that are specifically taught to students once a week. All new enrolments get the information about the RJ model. There are strong cluster links so that students from feeder primary schools encounter the same regime when they enrol in the high school. Council can see the benefits of cluster-based implementation of restorative justice.

The implementation of restorative justice will involve a significant commitment of resources, for example, teacher professional development, support staff and information for parents. This is particularly the case where schools have moved to the use of formal conferencing. One teacher noted that the value of conferences is partly in the preparation - the conference then becomes a safe opportunity. This implies a commitment of time and resources.

One teacher noted that training is especially important where teachers have had training, or come from another school or jurisdiction, where punitive punishment is the norm.

2.9 Links with other settings

Although not the focus of this paper, Council is aware that restorative justice is being implemented in the criminal justice system, in particular as an option for diverting indigenous youth from the courts to structured “circle sentencing” in which aboriginal elders are involved. In this respect also, Council sees a direct benefit for all young people in the development of a partnership between education and criminal justice systems. The

⁸ Aboriginal Justice Advisory Council, *News*, No. 28, October 2001

dominant driver of criminal justice is still punitive, or retributive, and therefore restorative justice represents a paradigm shift.

This paradigm shift will take time and effort to bring about. It appears to offer an alternative to the retributive justice model of the past, which survives in some conservative attitudes towards law and order today.

However, some in the Australian community have recoiled from the harsh sentences meted out to Australians convicted of drug offences overseas. In what might be considered a recommendation for RJ for the criminal justice system, one recent letter to the Editor of the *Canberra Times* recommended that the young Australians referred to as the Bali Nine, rather than being imprisoned for life (or executed) be “committed instead to a life sentence serving their communities, travelling all over Australia, speaking to school and community groups... This forward thinking, bilateral initiative just may save other young lives and their families from devastation, and in the process give purpose, meaning and a chance at redemption to the Bali mules.”⁹

3. CONCLUSION

In general Council supports restorative justice principles and their implementation in schools throughout the ACT. At the broad level, restorative justice has strong links to the values education already being undertaken in ACT government schools.

However, the paradigm shift required should be thoroughly and systematically supported to ensure that:

- on a system-wide basis teachers are consistently and effectively trained and re-trained in the principles and practices of restorative justice;
- that students are consistently required to utilise the practices, and there is congruence between schools as illustrated by the Calwell Cluster; and
- that provision is made by schools to educate parents on a regular basis about RJ and the relational basis on which schools are trying to develop learning programs.

Restorative justice in schools is a generational change that will require careful and phased implementation.

Restorative justice should be seen as part of a behaviour management scaffold in a school, but not necessarily the only strategy (although as restorative justice becomes embedded in a school community, it would very much become the usual and dominant strategy). While restorative justice is a worthwhile set of principles and practices, in the words of one parent “it is not a magic bullet that solves every problem.”

ACT Council of Parents' and Citizens' Associations
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⁹ The Canberra Times, 17 February 2006