

Restorative Justice in Practice: A Case Study

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Summary: This brief paper describes the authors' experience of co-ordinating a Restorative Justice response to an episode of offending in a small village involving multiple victims. It includes reflections on the entire process and the perceived benefits of utilising a Restorative Justice approach in practice.

Keywords: Courts, sentencing, Restorative Justice, victims, community, partnership, reparation.

Introduction

In late 2012, a number of residents in a midlands village awoke to find damage to property at their homes. Tyres on cars had been slashed, wheelie bins were burned, flower pots were broken and there was damage to car windscreens and bonnets. For all, this was a severe inconvenience. For some, it was a traumatic and frightening experience. The impact was amplified when it became known that so many neighbours within a small community were affected by this crime, a total of 30 victims.

In early 2013 two young men, both aged 20 years, pleaded guilty to offences of criminal damage. The cost of the damage caused was over €5,000. Neither man had been before the court before or had been known to An Garda Síochána (the Police Service in Ireland) prior to this incident.

An assessment by the Probation Service found that this matter was one in which a Restorative Justice approach could be effective. Initial

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contact with the local Garda Síochána confirmed that there was potential for such an approach to be successful, given that the young men had already written letters of apology to the victims. The Garda Síochána believed that the victims/community would respond well to a Restorative Justice intervention. The Probation Service presented a pre-sanction report to court with a proposal that a Restorative Justice Conference be convened and that the victims and community be included in this process. The judge agreed that this was an appropriate intervention and adjourned matters to allow the process to take place.

The Probation Service liaised with An Garda Síochána, Le Chéile's Restorative Justice Project,¹ and the local community in the weeks and months thereafter in order to build the foundations for the Restorative Justice Conference. Each of the victims was written to and invited to an information evening. In addition each of the victims was spoken to personally in their own home by either a Probation Officer or the local Garda Síochána sergeant. These meetings gave time and space to victims to explain what was involved, the potential benefits of participation and what they could expect from a Restorative Justice Conference. The information evening and individual meetings were very successful, and it was noted that there was an appetite within the community to engage actively in the process.

After our initial meetings, each victim was contacted to check if they wanted to go ahead with the Restorative Justice Conference and to discuss any individual worries they had about it. As a result, six people decided to participate in the conference. Those who chose not to participate cited fear, anger and lack of interest as their reasons. None of the victims were hostile to the concept. Those who took part had very different responses to the experience.

As organisers, the authors were conscious of the possibility that some victims might minimise the significance or seriousness of the impact, given the hurt expressed by others about what happened. We made sure to offer reassurance and validation to all involved. We also ensured that information on services that support victims was available, and found that the levels of support needed varied from person to person.

¹ Le Chéile is a child-centred, non-judgemental, non-governmental organisation funded by the Irish Youth Justice Service through the Probation Service. Le Chéile provides mentoring and Restorative Justice services. It recruits and trains volunteers from local communities to work with young people and families. For further information visit www.lecheile.ie

In the summer of 2013, a group of six victims attended the Restorative Justice Conference with both offenders present. One of the offenders chose to bring his girlfriend to the meeting also. The Restorative Justice Conference was co-facilitated by a Probation Officer and a Le Chéile staff member with specific expertise in the area. The Garda Siochána sergeant also participated fully in the conference. At this meeting the offenders were given an opportunity to explain what occurred on the night of the offences. They also expressed their deep regret and remorse at what they had done. Following this, each of the victims was given an opportunity to speak about how this incident had affected them.

It was very clear that their powerful stories had a profound effect on the two young men, who were visibly shaken and upset during the process. One of them remarked that up to that point he had understood that he had damaged property, but had no insight into how he had damaged these people's lives through his actions.

At the Restorative Justice Conference an Action Plan was agreed by all present. This plan aimed to repair the harm caused to the community through the offending. The offenders acknowledged a need to do this, and made a number of suggestions as to how they felt it could be achieved. In turn the victim representatives outlined how they felt their harm should be repaired. With assistance from the facilitators, a mutually acceptable plan was agreed.

Within this plan, the two offenders agreed to compensate every person fully for their loss. It was agreed that the total sum of the damage, over €5,000, would be repaid without delay and that each of the men would make an additional contribution to the fund to make it a sum of €7,000 in total. The additional money would be offered to a local charity. The two offenders also committed to providing 30 days' unpaid voluntary work in the community, i.e. one day for each victim. The court approved the plan and adjourned matters for some months to allow it to be completed.

Over subsequent months the two men, supervised by a local community volunteer from the Tidy Towns Project and the Residents Association where the offences occurred, undertook a number of projects aimed at restoring the harm they had caused. Examples of the work undertaken included the reclamation of up to three acres of waste ground in the estate where the offences occurred and also the removal of graffiti in the village. Following the work by the two young men, residents gained access to a larger and more aesthetically pleasing amenity area.

Feedback from the community and the victims of the offence was universally positive, in relation to both the Restorative Justice Conference itself and the benefits achieved through the voluntary work undertaken.

In late 2013, following the completion of the agreed Action Plan, both men once again appeared before the court. A report on the entire process was presented. This included correspondence and feedback from victims and community representatives detailing their satisfaction at the outcome of the process. The judge decided to dismiss matters under Section 1.1 of the Probation of Offenders Act 1907, which meant that while the facts of the case had been proved, no conviction has been recorded against the defendants.

Engaging with victims of crime

The approach outlined engages victims in a different way from the more traditional criminal justice approach. Despite growing interest and many advocates, Restorative Justice is not to the fore in public perceptions on crime and how it is dealt with. Many people in Ireland are unaware of Restorative Justice, its impact and what it has to offer. The European Forum for Restorative Justice (2007) in its vision and goals states that 'Restorative Justice aims to involve communities in dealing with crime and conflict. Therefore it is important to inform the general public and to stimulate their active participation.' A strategic approach to increasing public awareness in Ireland could help stimulate victim participation.

The current situation, whereby many people first hear of Restorative Justice as victims of crime, is not always conducive to their effective engagement with Restorative Justice. After being the victim of a crime many people experience heightened emotions and feelings of uncertainty about what has happened and what will happen next. Victims are unexpectedly confronted with a complicated jigsaw puzzle. Trying to put all the pieces together and deal with An Garda Síochána, the courts, the Director of Public Prosecutions (DPP), the victim supports and other services can be immensely stressful and difficult. Introducing Restorative Justice at this point can be like adding another new and unknown piece to the jigsaw puzzle.

When Restorative Justice is introduced properly, with clear explanations and support, it can work well, but it is not always easily done in fraught circumstances. A commitment and budget to increase public awareness in Ireland of Restorative Justice would enable people to have a

better basic understanding and awareness, to objectively assess possibilities for a Restorative Justice approach in their case and to decide whether they see it as worthwhile.

Benefits to victims of a restorative approach

To understand the benefits offered to victims by a restorative approach, it is useful to consider briefly the position of victims today. The current focus on court proceedings, establishing guilt and appropriate sanction, can contribute to the 'marginalization of the victim' (Spalek, 2006, p. 15). The victim's participation in court is often limited to giving evidence or reading a victim impact statement (assuming that the matter has proceeded to court and that the victim was informed and is present).

Unfortunately, many issues that greatly affect victims never get beyond the Garda Síochána investigation stage, and their role is thus further limited to reporting the offence. This situation can leave many victims feeling that even though they are the most affected by what happened, they are the least involved.

In a Restorative Justice Conference, all victims are offered an opportunity to individually debrief afterwards. Five out of six participated, and all five indicated that they felt their voice was heard.

This differs from the current system, which is 'particularly good at stealing conflicts' (Christie, 1977, p. 4) and does not recognise the importance of these conflicts to those most involved. A restorative approach recognises this and gives ownership back to the participants, particularly victims. It is the victim's voice, their story, their harm that is at the centre of a restorative approach. Because of this, and because Restorative Justice is unrestricted by precedent and seeks only the restoration of those involved, it has scope to really meet the needs of the harmed person, the wrongdoer, their families and the community generally.

In this Restorative Justice Conference, like others of its kind, everyone who participated was given a chance to tell their story, gain an understanding of why the offence/event happened and see the remorse of those involved. As there were multiple victims, it provided those involved with a chance to share what happened with others who had a similar experience, building a sense of community and group support. The facilitators were committed to the timely and appropriate provision of all relevant information and support to victims throughout the process.

Under Irish law victims have limited rights to information about their case or the support available. However, this will change with the implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 (European Union, 2012). The new directive establishes minimum standards for the rights, support and protection of victims of crime and is expected to be transposed into Irish law by 15 November 2015.

The directive aims to ensure, as detailed in Article 1, ‘that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings’ (European Union, 2012). This timely piece of legislation, appropriately implemented, will improve the position of victims of crime in Ireland and across Europe.

Benefits to communities

The court, by approving the plan formulated at the Restorative Justice Conference, validated the views of the community and empowered them to resolve the issues locally. After the Restorative Justice Conference, there were visible signs of reintegration and reconciliation, with people shaking hands, congratulating the two young men on coming to the conference and acknowledging that it couldn’t have been easy for them. There was also a tangible local benefit from the 30 days of unpaid community work completed by the young men. This work ensured that reparation was local, visible and meaningful.

Benefits to offender

In order for the Restorative Justice Conference to be successful, there had to be full co-operation from the offenders involved. In this matter the judge gave no indication or commitment regarding how he would ultimately dispose of the case, but the court’s endorsement of and support for the Restorative Justice Conference was clear.

There were benefits to the offenders both through the Restorative Justice Conference and through the court outcome. Through an examination of their own attitudes and behaviour, both offenders made positive changes in their lifestyles and behaviour. Each made alterations they recognised as necessary to avoid a recurrence of their offending behaviour.

Both men had spoken of the shame felt following their offending. One of them remarked how he had avoided walking along that street because of the shame. One of the outcomes of this process for the two young men was a release of these negative feelings and a renewed sense of belonging to the community. Prior to that point they had feelings of isolation and ostracisation from their own community. The Restorative Justice process had a healing effect for both young men.

The outcome of the court process was significantly more favourable for both offenders than it might have been had a Restorative Justice process not been adopted. The judge indicated to both men on numerous occasions throughout the court process that their behaviour warranted a custodial sanction. However, he stated that he had been influenced by the views of the community/victims on the matter in deciding on a non-custodial sanction.

Benefits for the Probation Service

Embracing the principle outlined in the Probation Service Restorative Justice Strategy (2013) that ‘interventions are best delivered in partnership with other agencies in the community’, the Probation Officers worked closely with Le Chéile Mentoring and Youth Justice Services and An Garda Síochána. By collaborating in this way, different skill sets were harnessed, workloads were shared and all increased their knowledge and skills.

This case illustrates the important role of the Probation Service in the promotion and effective implementation of Restorative Justice in practice. The Probation Service has invested in training of staff in Restorative Justice skills and practices and continues to do so. Probation Officers are equipped with the knowledge and skills to implement a restorative approach in their work. By including restorative approaches within its proposals to court in pre-sanction reports, the Probation Service can take a leading role in introducing and validating the use of Restorative Justice in the criminal justice system.

Development of restorative justice approaches and interventions needs ongoing engagement and co-working with An Garda Síochána. In the case study, the Garda Síochána sergeant had engaged directly with all the victims, supporting ‘buy-in’ from the community. This visible collaboration between the two services gave the Restorative Justice process greater legitimacy and credibility.

Although the Probation Service has always liaised with An Garda Síochána during the course of its work, experience in this case brought this collaborative relationship to a new level of co-operation that is of benefit to both partners. Working in partnership also ensured that we had the time and human resources necessary to deliver a quality intervention. The understanding from the outset of the level of work involved and the commitment to working together was integral to the success of the conference. There is much potential for further co-operation and co-working.

Probation Officers are very proficient at working with offenders, but do not frequently encounter the victims of offending. Through the Restorative Justice Conference and in liaising with victims, it was possible to develop increased knowledge and understanding of issues affecting victims. Through this work, therefore, the skill set and knowledge of the Probation Officer involved has been significantly enhanced. This can serve to increase that person's level of proficiency in working with these and other offenders.

The Probation Service, in working with offenders, seeks to challenge the attitudes and beliefs associated with their offending. The development of victim empathy and the emergence of genuine remorse are seen as key goals or aims in Probation Officers' case management plans. Much of this work can be done on a one-to-one basis between Probation Officer and offender. In a Restorative Justice model, however – particularly the model chosen in this case – the development of victim empathy is significantly accelerated.

In this case, both offenders were placed in a scenario where firstly they had to reflect on their actions and also on the impact their behaviour had on others. Secondly, through coming face to face with the victims and listening to their stories, the offenders were exposed to the hurt and trauma caused by their offending behaviour. The powerful experience had the desired effect in this case of developing victim empathy, which should serve to positively alter offender attitudes and beliefs and reduce the risk of reoffending.

Conclusion

The Probation Service, in its Restorative Justice Strategy (Probation Service, 2013) outlines its vision as follows:

The Probation Service, through a framework of specific, targeted actions will maximize the use of Restorative Justice across all areas of our work, to complement and support existing strategies and interventions to reduce reoffending and further possible victimisation, and promote and support meaningful engagement with victims and communities.

The experience described in this paper shows how a model of Restorative Justice can complement the existing structures and objectives of the criminal justice system. The Restorative Justice Conference added an extra dimension to the case. The Restorative Justice approach does not undermine or disempower the criminal justice system but had the effect of enhancing the process for all concerned.

Throughout the Restorative Justice Conference described, the needs and views of victims and communities were to the fore. From the outset there was meaningful engagement with victims in discussing and devising a process that would meet their needs. The community and victims were listened to and included throughout all key decision making. In his final deliberation, the judge referenced the victims' views in his sentencing. This not only has reduced further victimisation but has added to the 'healing process' for those concerned, who have felt empowered through the Restorative Justice Conference.

References

- Christie, N. (1977), 'Conflicts as property', *British Journal of Criminology*, vol. 17, no. 1, pp. 1–17
- European Forum for Restorative Justice (2007), Information Briefing, available at www.euforumrj.org (accessed 29 July 2014)
- European Union (2012), *Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA*, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0029> (accessed 29 July 2014)
- Probation Service (2013), *Restorative Justice Strategy*, available at [www.probation.ie/website/probationservice/websitepublishingdec09.nsf/AttachmentsByTitle/Probation+Service+Restorative+Justice+Strategy+2013/\\$FILE/Restorative+Justice+Strategy+November+2013.pdf](http://www.probation.ie/website/probationservice/websitepublishingdec09.nsf/AttachmentsByTitle/Probation+Service+Restorative+Justice+Strategy+2013/$FILE/Restorative+Justice+Strategy+November+2013.pdf) (accessed 29 July 2014)
- Spalek, B. (2006), *Crime Victims: Theory, Policy and Practice*, Basingstoke, UK: Palgrave Macmillan