Module 1
Restorative justice process and principles
Tikanga and kaupapa

Restorative Justice
Facilitator Induction Training
This training programme is funded by the Ministry of Justice – Tāhū o te Ture.

Copyright

This module is copyright and is for training of restorative justice facilitators prior to their face to face training course. The module or any part of the module cannot be used for other training without permission in writing from PACT Limited. Contact anne@pact.co.nz.
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contents</td>
<td>3</td>
</tr>
<tr>
<td>Introduction</td>
<td>4</td>
</tr>
<tr>
<td>What is restorative justice?</td>
<td>6</td>
</tr>
<tr>
<td>The benefits of restorative justice</td>
<td>9</td>
</tr>
<tr>
<td>Restorative justice values</td>
<td>13</td>
</tr>
<tr>
<td>Providers and key roles</td>
<td>14</td>
</tr>
<tr>
<td>The restorative justice referral process</td>
<td>16</td>
</tr>
<tr>
<td>The restorative justice facilitation process</td>
<td>18</td>
</tr>
<tr>
<td>The restorative justice conference</td>
<td>20</td>
</tr>
<tr>
<td>The six principles of best practice for restorative justice</td>
<td>30</td>
</tr>
<tr>
<td>Becoming a restorative justice facilitator</td>
<td>49</td>
</tr>
<tr>
<td>Ministry of Justice policy</td>
<td>52</td>
</tr>
<tr>
<td>Assessment: Restorative justice process and principles</td>
<td>57</td>
</tr>
<tr>
<td>Appendix: Reading list</td>
<td>59</td>
</tr>
</tbody>
</table>
Introduction

Whakataukī

He aha te mea nui o te ao?
Māku e kī atu,
He tangata, he tangata, he tangata.

What is the greatest thing of this world?
I will say to you,
It is people, it is people, it is people.

Purpose

This first module is for those interested in becoming involved in restorative justice as facilitators. It gives an overview of the processes and principles involved in restorative justice facilitation. It is important that you understand the role and what will be expected of you so that you can make an informed decision on whether this is a service you want to become involved in.

Learning objective

In this module you learn to:

Explain:
- What restorative justice is and its benefits
- The restorative justice processes and key roles
- The referral process
- The facilitation process
- The restorative justice conference process
- The restorative justice principles
- Training and accreditation process for facilitators
**Additional resources**

There are some videos of restorative justice processes that you will need to watch. There is a link provided to these videos and you can either click on the link or you can go to the Resolution Institute website where you will find the videos under Module resources or on this link: [http://www.resolution.institute/restorative-justice/training-modules](http://www.resolution.institute/restorative-justice/training-modules)

Participants may be interested in further reading on restorative justice so a reading list is appended at the end of this module.

**Instructions for working through this module**

- First ensure that you have the latest version of this module. The module date is on the footer. The Resolution Institute website has the latest version of each module.
- Work through this module at your own pace, or work through the module with one or more colleagues if you wish. Group learning can be easier and more fun.
- Complete the practice exercises and check your answers against the feedback that follows each practice.
- Access the references included in the module for further information.
- When you have completed the module go to the Resolution Institute website and individually complete the on-line assessment for module 1. Full instructions are given at the end of this module.
What is restorative justice?

Introduction

The term, ‘restorative justice’ means different things to different people, so let’s be clear before setting out on this training journey, just what we mean by restorative justice. The Ministry of Justice provides a definition in the, ‘Restorative justice best practice framework’, which is:

Restorative Justice is - a community-based response to crime that aims to hold offenders to account for their offending and, as far as possible, repair the harm they’ve done to the victim and the community.

Participation in restorative justice is voluntary and involves a facilitated meeting between the victim and offender.

Key points are:

- Restorative justice deals with a specific offence
- Person(s) harmed (the victim) and the person(s) responsible for the harm (the offender) are involved
- There is a meeting (conference) and it is a managed, ‘facilitated’ process
- The offence and the effects of it are talked about (which, for the victim, can in itself be restorative) and outcomes are reached (often including agreed actions the offender will take to repair or reduce the harm done).

The scope of this training

A restorative approach is practised in an ever widening range of situations, for example, in schools to deal with misbehaviour, or in the workplace to deal with incidents affecting workers.

In this training we cover restorative justice in relation to court and police referred cases. These cases relate to adult (18 and over) offenders who have been charged with an offence and have admitted guilt. Restorative justice is not – in the context of this training programme – youth justice and family group conferences, or mediation or counselling.

This training deals with general restorative justice and does not cover restorative justice for specialist cases, such as family violence or sexual violence.

Restorative justice involves

Successful restorative justice requires participation and support from multiple parties.

1. The criminal justice system under Section 24(A) of the Sentencing Act refers certain criminal cases to restorative justice. You will learn about this in module 5.

2. The restorative justice providers, are funded by the Ministry of Justice. They provide quality restorative justice services.

3. Restorative justice requires voluntary participation of the victim. They can choose to have someone represent them in the process, or at minimum, need to be consulted and agree to restorative justice proceeding. If participating, the victim is encouraged to have support (whānau, friends, support agencies).

4. Restorative justice requires the voluntary participation of the offender and his/her support. Support may include whānau, friends, support agencies (counsellor, social worker etc).

To be clear on some of the key parties to restorative justice let's look at some definitions.

- **Victim/s**
  - Whānau/family
  - Friends
  - Relevant professionals

- **Criminal justice system**
  - Judge, court staff, Victim Advisor, Police, Probation

- **Provider**
  - Manager, Facilitators, Court Coordinators, administrative staff

- **Offender/s**
  - Whānau/family
  - Friends
  - Relevant professionals
**Victim**

The victim (as defined in the Victims Rights Act, 2002) is a person against whom an offence has been committed or who suffers physical injury, or loss or damage to property as a result of an offence.

In the case of a child or young person (under 18 years), the parent or legal guardian represents the victim. This means the parent or guardian needs to be consulted when the victim is under 18.

In the case of a person who has been killed or incapacitated, it is members of the immediate family who are the victims.

For some purposes under the Victims Rights Act the definition of victim also includes a person who suffers any form of emotional harm due to an offence.

**Offender**

An offender is a person who has been convicted of the offence or who pleads guilty.

**Whānau**

A member of the family (of victim or offender) or other culturally recognized family group.

**Support people**

Support people may attend a conference in support of either the victim or offender. These may be family/whānau, friends.

Relevant professionals or advisers may also be involved as support. Relevant professionals may be counsellors, medical experts, interpreters or cultural advisers. Lawyers do not generally attend restorative justice meetings as it is not appropriate for others to speak on the offender’s behalf.

**Community**

The community is not defined as a victim unless the community has itself suffered loss or damage to property, such as when a public building has been damaged or destroyed.

The community can be represented by community ‘panellists’ at a restorative justice conference.
The benefits of restorative justice

Research shows that restorative justice is beneficial to the victim, the offender and to the community. A summary of the benefits of restorative justice to victim, offender and community is as follows:

For the victim (and whānau)
Restorative justice aims to restore power and peace of mind to the victim. The benefits may include the victim being able to:

- ask questions about the offending
- tell the offender how they feel about his/her actions and what the impacts of the crime have been
- feel more in control – for example, by hearing an apology and by agreeing to actions that will help to heal the damage
- have an input into the court system through having their views reported in the restorative justice conference report
- have an input into reducing crime in the community
- feel less fearful of crime.

For the offender (and whānau)
The benefits for the offender are being able to:

- take responsibility for the offending
- have a voice and be heard – to tell their story and put the facts right
- hear first-hand about the harm done to the victims and/or community by the offence
- gain an appreciation of the impacts of the offending
- have an opportunity to apologize face to face
- have an opportunity to put things right - in agreeing and carrying out agreed actions
- have their efforts to put things right taken into account in their sentencing.
For the community affected by the offending

The benefits may include:

- Reduced chance of the offender reoffending. A New Zealand study over the period 2008-2013 found the reoffending rate for offenders who participated in restorative justice was 15% lower over the following 12 month period than comparable offenders and 7.5% lower over three years. Offenders who participated in restorative justice committed 26% fewer offences per offender within the following 12 month period than comparable offenders (20% fewer offences within three years).

- A reduced fear of crime.

Some restorative justice processes include community members in the restorative justice hui (conference). The community members are sometimes local business people or representatives of the local iwi. For these community members, the benefits may include:

- An opportunity to have a say
- An opportunity to suggest and contribute to restorative actions
- An opportunity to understand crime better, and put community resources in place that can lead to lower crime rates.

Further information

Practice 1

This practice provides an opportunity for you to check your knowledge and understanding of restorative justice before you move on to the next topic in this module.

Answer the questions that follow and then check your answers against the Practice 1: Feedback, that follows.

1. Who are the four parties to restorative justice?

2. List three benefits of restorative justice to the victim.

3. In a NZ study it was shown that over a 12 month period restorative justice had what impact on –
   - The reoffending rate? _____%
   - The number of offences committed? _____%

4. A man (20 years old) has had a number of drink drive convictions. His whānau feel ashamed and responsible for his ‘out of control’ behaviour. He has been referred to restorative justice for his latest offence – an accident while drunk, in which he has hit and injured an elderly pedestrian.

   Who is the victim?

   Who is the offender?

   Who else should be included in the restorative justice process?

5. An offender has pleaded guilty to arson – he has burned down the wharenui on the marae. He agrees to attend a restorative justice conference in which he is required to meet a panel of marae elders. Who is the victim in this case?
Practice 1: Feedback

Check your answers against those given below.

1. Who are the four parties to restorative justice?
   - Victims
   - Offenders
   - Criminal justice system
   - Restorative justice provider

2. List three benefits of restorative justice to the victim.
   - Ask questions about the offending
   - Tell the offender how they feel about his/her actions and what the impacts of the crime have been
   - Feel more in control – for example, by hearing an apology and by agreeing to actions that will help to heal the damage
   - Have an input into the court system through having their views reported in the restorative justice conference report
   - Have an input into reducing crime in the community
   - Feel less fearful of crime.

3. In a NZ study it was shown that over a 12 month period restorative justice had what impact on –
   - The reoffending rate? 15%
   - The number of offences committed? 26%

4. A man (20 years old) has had a number of drink drive convictions. His whānau feel ashamed and responsible for his 'out of control' behaviour. He has been referred to restorative justice for his latest offence – an accident while drunk, in which he has hit and injured an elderly pedestrian.
   - Who is the victim? The elderly pedestrian
   - Who is the offender? The young man
   - Who else should be included in the restorative justice process? Support (e.g. family/whānau) for each party

5. An offender has pleaded guilty to arson – he has burned down the wharenui on the marae. He agrees to attend a restorative justice conference in which he is required to meet a panel of marae elders. Who is the victim in this case?
   - The marae community
Restorative justice values

There are seven core values that underpin the practice of restorative justice in Aotearoa New Zealand. These values form the basis of what it means to be ‘restorative’ and are defined in the Ministry of Justice, ‘Restorative justice best practice framework’. They are:

<table>
<thead>
<tr>
<th>Value</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pono</strong></td>
<td>We are truthful, honest and sincere in our interactions with people.</td>
</tr>
<tr>
<td><strong>Tika</strong></td>
<td>We do things in the right way.</td>
</tr>
<tr>
<td><strong>Aroha</strong></td>
<td>We feel compassion, caring and empathy for others.</td>
</tr>
<tr>
<td><strong>Mana motuhake</strong></td>
<td>We enable people to achieve self-determination.</td>
</tr>
<tr>
<td><strong>Manaakitanga</strong></td>
<td>We show respect, generosity and care for others.</td>
</tr>
<tr>
<td><strong>Āharurutanga</strong></td>
<td>We provide a place of warmth and safety.</td>
</tr>
<tr>
<td><strong>Whānaungatanga</strong></td>
<td>We develop relationships and work together.</td>
</tr>
</tbody>
</table>
Providers and key roles

Providers are organizations contracted by the Ministry of Justice to deliver restorative justice services to courts. They are required under their contract to provide a quality service and deliver results. For example, they are expected to ensure their facilitators are trained and accredited (or in the process of gaining accreditation).

A provider may be a trust, a runanga (Māori organization), a NGO (Non Government Organisation), district council or even a company.

Provider manager

Most providers are headed by a manager who reports to the Ministry of Justice and to their own board. The manager is responsible for managing facilitators so that they:
- Are clear on what is expected of them (have copies of and understand group policies and procedures)
- Get feedback on their performance
- Have access to professional supervision, coaching and mentoring
- Have access to training and further development opportunities
- Receive recognition and payment for their work

Providers decide their own structure but a typical structure for a larger group covering 2 courts is –
The manager ensures there are enough competent facilitators working with the provider to handle the likely number of cases referred. The manager has to manage the referrals and this means -

- allocating cases to suitable facilitators
- tracking case progress and ensuring deadlines are met
- reporting back to the court on each case
- ensuring reports are to standard
- keeping records of each case

In bigger providers there may be an administrator to do some of this work, or the court co-ordinators may do it.

**NOTE**

All providers operate by their own management systems. New facilitators are advised to find out from their manager how their group operates.

### Court coordinators

When a court is sitting (operating) and people are coming up before the judge to enter a plea of guilty or not guilty, there should be a restorative justice representative in the court. This person is typically called the restorative justice co-ordinator and their job is to –

- answer questions about referrals asked by lawyers, the judge, and other people who work in the court
- note and follow up when someone is referred to restorative justice
- talk to offenders who are referred to give them information about restorative justice, check that they are interested and let them know a facilitator will contact them.

Only the big courts run every day and smaller courts may only operate one day a week. Many court co-ordinators also work as facilitators.

### Facilitators

We will be covering exactly what the facilitator has to do in the next section. Basically, once a case is assigned to a facilitator, the facilitator has responsibility for providing the restorative justice service through to its conclusion, including writing a report that goes back to the court. In doing this work they have to follow their provider policy and procedures and meet quality standards.
The restorative justice referral process

Court referred restorative justice process

Note:
- The referral information travels down from the court to the facilitator.
- A conference report is written by the facilitator.
- The report then goes back up from the facilitator, to the provider, to the court.
- The report is taken into account in sentencing the offender.

We consider the court process here as the main process for restorative justice in NZ. This is because 95% of restorative justice referrals come from the court (through the process outlined above), while only 5% come from police. There are a very small number of post sentence referrals.

Of the referrals from the court, about 40% are concerned with family violence.
**Police referred restorative justice process**

Police can refer cases to restorative justice provided the offender has admitted guilt. These cases are known as diversion referrals. You will learn about diversion in module 5.

In police referrals, the process is the same as that outlined on the previous page except that the referral comes straight from the police and the conference report goes directly to the police.

**Post sentence restorative justice**

There are a few cases referred to restorative justice after the offender has been sentenced. These are typically more serious offences where the offender is in prison. The case is usually referred to restorative justice at the request of the victim. Usually experienced facilitators handle these post sentence referrals. These cases are outside of Ministry of Justice contracted practice.
The restorative justice facilitation process

The chart below shows the facilitator’s role in restorative justice. The facilitation process involves 7 steps – 6 actions plus one key decision. The process starts when the facilitator receives the referral from their provider. The referral includes all relevant documentation: information about the case from the police (called the ‘Police Summary of Facts’); a list of previous convictions (if there are any); contact details for the offender and the victims; and sometimes, a statement from the victim (the ‘Victim Impact Statement’).

1. Pre-conference meeting with offender
2. Pre-conference meeting with victim.
3. Is it safe to go to conference
   - NO: Notify provider. Finish.
   - YES: Document a ‘conference risk management plan’
4. Conference
5. Write conference report
6. Follow-up

Generally the offender and his/her support are seen first. The offender is encouraged to tell his/her story, and possible outcomes are explored. Risk of proceeding with RJ is assessed.

The victim and his/her support are met and invited to tell their story and talk about the impact of the crime. Possible outcomes are explored.
You practice facilitating pre-conferences in module 11.

This is a key decision and much of module 2 relates to this decision. Risk is assessed after EACH pre-conference and a decision made on whether to proceed with the RJ process.

There are always some risks in restorative justice and planning is about identifying and documenting these and documenting strategies to implement. You learn about this in module 12.

The pre-conference meetings and good planning are the key to a successful conference where the offender and victim come together. You practice this in module 13.

The written report is the face of the restorative justice service for lawyers and judges. You learn about report writing in module 6.

Most cases require monitoring and follow-up after the conference.
Victim/offender restorative justice facilitation process

This is the process followed by most providers. The victim is always at the conference or represented at the conference.

Facilitators generally work in pairs. Some providers refer to one as the 'lead facilitator' and the other as the 'co-facilitator' or 'note taker'. Some providers have sole facilitators. New facilitators will always work with an experienced facilitator and be mentored, so throughout this course, all references and practices assume two facilitators for the restorative justice process.

The manager (or administrator) decides the pairing based on facilitator expertise and details of the case. The facilitators decide between themselves who does what and are together responsible for following the facilitation process and writing the conference report.

Community panel restorative justice facilitation process

The community panel process is used by some groups as part of their restorative justice practice. The community panels differ from the victim/offender process in three respects.

1. There is often only one facilitator.

2. The victim may or may not be present at the restorative justice conference. If the victim is not present, he or she must have agreed to the conference proceeding. The victim can elect someone to represent them at the conference if they wish. This can be a panel member.

3. There are usually 2 or 3 panel members present at the conference. They are chosen by the provider manager for their expertise relevant to the case. They represent the views of the community and contribute to both decision-making and the conference agreements.

In some community panels, police are also represented. They may read the information about the case, contribute when invited and answer questions.

Some community panels funded by Ministry of Justice are iwi based. Note that the Ministry of Justice community panels are separate from the iwi justice system (Te Pae Oranga) operated and funded by NZ Police.
The restorative justice conference

The restorative justice conference is where the victim and offender get to talk kanohi ki te kanohi (face to face). It comprises a looking back over the offence (called the ‘facts and impacts’ section) and then a looking forward (called the ‘outcomes’ section) to what will be done to address the harm caused. The key components of the conference discussion are shown below.

The **facts and impacts section** of the conference covers:
- The offender’s story
- The victim’s story
- Impacts of the offence on the victim and whānau

In the **outcomes section** of the conference covers:
- What the victim wants
- What the offender offers
- Agreements reached (for example, to pay money, to do some work, to attend a course)

**Here is what to do**

Go to the Resolution Institute website [http://www.resolution.institute/restorative-justice/training-modules](http://www.resolution.institute/restorative-justice/training-modules). You will see a link to two videos. Watch Video 1, which shows you the victim/offender process in relation to a burglary.

1. Complete Exercise 2 which requires you to answer some questions about the victim/offender process. This is so you can check your understanding of the process.

2. Watch Video 2, which shows a community panel process in relation to an assault on Jim.

3. Complete Exercise 3, which requires you to answer some questions about the community panel process shown.

4. Complete Practice 4 which checks your understanding of the restorative justice process.
Exercise 2

Answer the following questions about the restorative justice processes in the case of burglary.

1. What is the name of the offender?

2. Who is the first pre-conference with?

3. At the pre-conference with the offender, what ideas does the offender have for offers of restitution?

4. At the pre-conference with the victim, how many support people does she have with her?

5. At the conference, what happened initially when the offender was asked if he was on drugs?

6. How much does the offender agree to pay?

7. What does the offender agree to attend?

8. What do the facilitator and co-facilitator do after the conference?
Exercise 2: Feedback

1. What is the name of the offender? 
   Zane

2. Who is the first pre-conference with? 
   The offender

3. At the pre-conference with the offender, what ideas does the offender have for offers of restitution? 
   He says he can build or repair, do gardening and sell his i-pod.

4. At the pre-conference with the victim, how many support people does she have with her? 
   Two

5. At the conference, what happened initially when the offender was asked if he was on drugs? 
   He refused to answer

6. How much does the offender agree to pay? 
   $700

7. What does the offender agree to attend? 
   A drug and alcohol rehabilitation programme.

8. What do the facilitator and co-facilitator do after the conference? 
   They debrief together.
Exercise 3

Answer the following questions about the restorative justice processes in the case of the assault on Jim.

1. In the pre-conference with the offender, what does the offender blame his offence on?

2. When the facilitator rings the victim, what is the purpose of her call?

3. At the pre-conference with the victim, what does the victim list as the main physical effects of the crime on him?

4. Apart from the physical effects, how else has the crime affected the victim?

5. Who challenges the offender on his responsibility for the offence?

6. How much does Eric, the offender, agree to pay?

7. What programmes does Eric agree to attend?
Exercise 3: Feedback

1. In the pre-conference with the offender, what does the offender blame his offence on?
   Whisky.

2. When the facilitator rings the victim, what is the purpose of her call?
   To arrange a meeting.

3. At the pre-conference with the victim, what does the victim list as the main physical effects of the crime on him?
   He is unable to work and lift things, including his new baby.

4. Apart from the physical effects, how else has the crime affected the victim?
   He is feeling down.

5. Who challenges the offender on his responsibility for the offence?
   The victim and his partner, Sally.

6. How much does Eric, the offender, agree to pay?
   $4000

7. What programmes does Eric agree to attend?
   Drug and alcohol programme and Stopping Violence programme.
Practice 4

This practice checks your knowledge of restorative values, provider roles, the restorative justice process and the facilitation process.

1. List at least three restorative justice values.

2. What are two things the judge does in relation to the restorative justice process?

3. What are two things the provider manager (or the administrator) does in relation to managing restorative justice referrals?

4. List three things the provider manager is responsible for in relation to managing facilitators?

5. What is the job title of the restorative justice person who is in the court when it is sitting?

6. What are the 7 steps (6 actions and one key decision) involved in facilitation?

   1.
   2.
   3.
   4.
   5.
   6.
   7.
7. Explain 3 differences between the victim/offender conference and the community panel conference.

1.

2.

3.

8. Who decides if a conference should proceed?

9. What are the two sections in the restorative justice conference?

1.

2.

10. What is covered in the facts and impacts section of a conference?

11. What is covered in the outcomes section of a conference?

12. What three examples of agreements that might be reached between the victim and offender in a restorative justice conference?
Practice 4: Feedback

Check your answers against those given below.

1. List at least 3 restorative justice values.
   - Pono
   - Tika
   - Aroha
   - Mana motuhake
   - Manaakitanga
   - Āharurutanga
   - Whānaungatanga

2. What are two things the judge does in relation to the restorative justice process?
   - Refers the case to restorative justice
   - Reads the conference report before sentencing and takes it into account.

3. What are two things the provider manager (or the administrator) does in relation to handling restorative justice referrals?
   - Allocating cases to facilitators
   - Tracking case progress and ensuring deadlines are met
   - Reporting back to the court on each case
   - Ensuring reports are to standard
   - Keeping records of each case

4. List three things the provider manager is responsible for in relation to managing facilitators?
   - Ensuring facilitators -
     - Are clear on what is expected of them (have copies of and understand group policies and procedures)
     - Get feedback on their performance
     - Have access to professional supervision, coaching and mentoring
     - Have access to training and further development opportunities
     - Receive recognition and payment for their work

5. What is the job title of the restorative justice person who is in the court when it is sitting?
   - The restorative justice court co-ordinator
6. What are the 7 steps (6 actions and one key decision) involved in facilitation?
   1. Pre-conference with offender
   2. Pre-conference with victim
   3. Decide whether to proceed to conference and if so -
   4. Document a ‘conference risk management plan’
   5. Conference
   6. Write conference report
   7. Follow-up

7. Explain 3 differences between the victim/offender conference and the community panel conference.
   1. There is generally only one facilitator at the community panel conference while there are two at the victim/offender conference.
   2. The victim may or may not be present at the restorative justice community panel conference. If the victim is not present, he or she must have agreed to the conference proceeding. The victim can elect someone to represent them at the conference if they wish. At the victim/offender conference the victim or their representative is always there.
   3. There are (usually 2 or 3) panel members present at the community panel conference. They are chosen by the provider manager for their expertise relevant to the case. They represent the views of the community and contribute to both decision-making and the conference agreements. Community representatives are not part of the victim/offender model.

8. Who decides if a conference should proceed?
   The facilitators.

9. What are the two sections in the restorative justice conference?
   1. The facts and impacts section
   2. The outcomes section

10. What is covered in the facts and impacts section of a conference?
    The offender’s story
The victim’s story
Impacts of the offence on the victim and whānau

11. What is covered in the outcomes section of a conference?

What the victim wants
What the offender offers
Agreements reached

12. What three examples of agreements that might be reached between the victim and offender in a restorative justice conference?

To pay money
To do some work
To attend a course
The six principles of best practice for restorative justice

In New Zealand restorative justice practice and processes vary a bit depending on the provider and the needs to be met in their community. In all cases, however, there are six principles that must always be adhered to. These principles justice are derived from the restorative justice values (see page 13). The six principles can be considered as the foundation and non-negotiable guiding lights of restorative justice.

It is important that every facilitator knows and understands the principles in order that they can identify in any situation what practice will comply with the principles and what practice might not comply. The principles are:

Participation is **VOLUNTARY** throughout the restorative justice process

Ka whai wāhi ngā tāngata ki te tukanga paremata whakahaumanu i runga anō i tō rātou **HIAHIA** kia pērā rātou.

The victim and the offender are the **CENTRAL PARTICIPANTS** in the restorative justice process

Ko te tangata i pā te taihara ki a ia me te tangata nāna te taihara, koia rā ngā **TĀNGATA MATUA** o te tukanga paremata whakahaumanu.

**UNDERSTANDING** is key to effective participation

Mā te **MĀRAMA** e whaihua ai te whai wāhi mai.

Offender **ACCOUNTABILITY** is key to the restorative justice process

Me **WHAKAAE** te tangata taihara **KUA HARA IA**; mā reira e whaihua ai te tukanga paremata whakahaumanu.

Restorative justice processes are **FLEXIBLE AND RESPONSIVE** to the needs of participants

He **TĀWARIWARI**, he **ARO NUI** anō ngā tukanga paremata whakahaumanu ki ngā hiahia o ngā tāngata whai wāhi mai.

Restorative justice processes are **SAFE** for participants

He **HAUMARU** ngā tukanga paremata whakahaumanu mō ngā tāngata katoa ka whai wāhi mai.

Let's look at each of the principles in more detail.
1. Hiahia / Voluntary

Participation is VOLUNTARY throughout the restorative justice process

*Informed consent is always sought from participants, victims determine their own level of participation and all outcomes are arrived at voluntarily*

Participation of the victim and offender needs to be voluntary throughout the restorative justice process because free choice leads to empowerment and accountability.

A restorative justice process cannot take place without the informed consent of the victim and offender. A victim can choose to have someone represent them in the process, but an offender needs to participate in person. The victim and offender can choose to withdraw from the process at any time.

Information must be shared voluntarily. Agreements must be arrived at voluntarily and reflect the agreed view of the victim and offender.

**Example 1 - complies with principle 1**

An offender who pleaded guilty to a drive-off at a service station agreed to go to restorative justice. The manager of the service station did not want to give up several hours and declined to attend a pre-conference meeting. The facilitator asked, and the victim agreed, that a community member could represent him in the restorative justice process.

**Example 1 – does not comply**

An offender was told by his lawyer that he should go to restorative justice and he might then get a lesser sentence. When asked by a facilitator if he was willing to meet and talk about restorative justice he replied, “Yes I have to do it”. If the facilitator failed to tell him that it is voluntary and he did not have to do it, then the facilitator would not have complied with principle 1.
### Example 2 - complies with principle 1

A restorative justice conference was held between an offender (shop lifting) and victim (shop owner). The victim asked the offender to pay $300 to cover the loss of goods. The offender declined and said he would instead do work hours. After further discussion both parties agreed the offender would do 20 hours work painting fences. This voluntary agreement complies with principle 1.

### Example 2 – does not comply

A restorative justice conference was held between an offender (shop lifting) and victim (shop owner). The victim asked the offender to pay $300 to cover the loss of goods. A participant at the conference told the offender he better pay up or else he will get a harsher sentence.

In this case principle 1 may not be complied with. To comply, the facilitator would need to intervene and reassure the offender that agreements are voluntary.

### Example 3 - complies with principle 1

A female offender, for cultural and religious reasons, wants her brother to speak for her at conference. She will be present at the conference and the victim has agreed to the arrangement. Because she is attending voluntarily, principle 1 is complied with. The facilitator has also spoken with a respected cultural leader to ensure the agreed approach is appropriate.

### Example 3 – does not comply

A female offender, for cultural and religious reasons, wants her brother to speak for her at conference. She is happy to be present at the conference and the victim has agreed to the arrangement. At the conference she is asked a question directly by the victim and is told by the facilitator to answer the question. This denied her right to voluntarily share information and does not comply with principle 1.
2. Tāngata matua/ Central participants

The victim and the offender are the CENTRAL PARTICIPANTS in the restorative justice process.

As the victim and offender are the most affected, they are the principle speakers and decision makers at the conference.

The victim and offender are the primary participants in the restorative justice process. In practice this means that in the conference the victim and offender talk directly to one another. It also means that agreements are made between the victim and offender, not between the offender and other attendees.

Other attendees do have important roles but their roles are secondary. For example, both the offender and victim may bring support, typically whānau. Support people will get to speak and add their thoughts and suggestions but they cannot be allowed to take over a restorative justice conference. The community can be represented at the conference and some providers appoint community representatives. They will similarly have a secondary role, asking questions, making suggestions. Professionals may be there in some cases to listen and give advice but again their role is secondary to the victim and offender’s.

Example 1 - complies with principle 2

An offender pleaded guilty to stealing a motor vehicle. He agreed to attend a restorative justice conference in which included community representatives. The victim was invited and agreed to attend. The offender was supported by whānau and the victim by his partner.

At the conference when discussion turned to what action the offender should take to make amends, a community representative spoke up first with some suggestions. The facilitator asked the community representative to wait until the victim had a chance to talk about what actions he would like and reminded the community representative that the victim and offender are the key participants.

Example 1 – does not comply

In the above case, if the facilitator allowed the panel member and offender to make agreements and left the victim out, then this would not recognise the victim and offender as the central participants.
**Example 2 – complies with principle 2**

A young victim was shy about talking directly to the offender and whenever she paused her support person (her father) jumped in and talked to the offender for her.

The facilitator stopped the father and asked him to give his daughter time and space to speak for herself.

---

**Example 2 – does not comply**

In the above case, if the facilitator allowed the support to take over then this would not recognise the victim and offender as the central participants.

---

**Example 3 - complies with principle 2**

A victim declined to participate in the restorative justice process but agreed to a community member representing her. The facilitator selected a suitable community member and asked if she could represent the victim at conference. The community member agreed and rang the victim and discussed with her what she would like to say to the offender and what agreements she would be satisfied with.

The community member attended the conferences and passed on the thoughts and wishes of the victim. This is in line with principle 2 because although the victim is not there in person, she has a means of getting her message to the offender.

---

**Example 3 – does not comply**

In the above case, the victim agreed to a community member representing her. The facilitator did not arrange for a community member to contact the victim to ascertain her views before the conference. At the conference the offender and community member spoke directly to one another and agreed actions the offender would take.

This does not comply with principle 2. The victim has declined to attend the conference but has not had a chance to participate indirectly.
3. Mārama / Understanding

UNDERSTANDING is key to effective participation.

*Facilitators provide participants with high-quality information and work with them to ensure they know what to expect throughout the restorative justice process.*

Participants in restorative justice processes must be well prepared for the conference. Pre-conferences should be held separately – with the offender and with the victim. At these pre-conference meetings restorative justice should be explained and participants must have reasonable expectations of the processes involved and the possible outcomes.

Everyone who attends a conference should understand the restorative justice process and their role in it.

Giving participants information is insufficient. Principle 3 requires understanding and this means careful preparation and checking of understanding. In some cases a third party may be needed to assist in this. For example, an interpreter may be needed to explain restorative justice to someone who has English as a second language.

<table>
<thead>
<tr>
<th>Example 1 - complies with principle 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>A restorative justice conference was being held in a church hall. On the day, three extra support people turned up with the offender. The victim was consulted and agreed to the extra people attending and agreed to wait while the extras were briefed.</td>
</tr>
<tr>
<td>The extra attendees were taken aside, restorative justice was explained and the offence discussed. They were assessed as providing no risk to safety and attended the conference. The last minute action was documented in the ‘conference risk management plan’.</td>
</tr>
<tr>
<td>Principle 3 has been complied with as all those at the conference understood the process and their role in it.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Example 1 – does not comply</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the above case, if the extra attendees were allowed to simply join in, then principle 3 would not be complied with. They would not have been fully informed, the facilitators do not know their stance on the offence, and this could be a safety risk.</td>
</tr>
</tbody>
</table>
### Example 2 - complies with principle 3
A support person for an offender did not turn up to a pre-conference. To ensure the support person fully understood their crucial role in a restorative justice conference the facilitator arranged a second pre-conference.

### Example 2 – does not comply
A support person for an offender did not turn up to a pre-conference. The facilitator phoned the support person and told them about the restorative justice process. The support person was not told about the offence nor asked their views on it.

In this case the support person’s understanding of the support role is unknown and the facilitator has risked failing to comply with principle 3.

### Example 3 - complies with principle 3
A victim of a burglary is a recent immigrant and has limited English. The facilitator arranged a professional interpreter to come along to a pre-conference. The facilitator explained restorative justice through the interpreter. The facilitator also found out, through the interpreter, the victim’s story, the impacts of the crime and possible outcomes were discussed.

### Example 3 – does not comply
In the above example the facilitator had a pre-conference and talked slowly. The facilitator was not sure how much the victim understood so agreed to arrange an interpreter for the conference.

This does not comply with principle 3 because the facilitator has not ensured the victim fully understood the restorative justice process.
4. Whakaae, Kua hara ia / Accountability

Offender ACCOUNTABILITY is key to the restorative justice process.

*The offender must acknowledge responsibility for the offence before the case can be accepted for a restorative justice process.*

A ‘guilty’ plea is required before most cases may be referred to a restorative justice provider. Accountability can be demonstrated by a guilty plea but is not an indicator of remorse. Nor is apology by itself, an indicator of taking responsibility for the offence.

The restorative justice process must hold the offender accountable for the offence. For offenders, involvement of whānau can be an important part of taking responsibility, as it means that they have admitted their offending to their own community.

Another indicator of accountability is the willingness of the offender to take action to address the harm they have caused. The restorative justice process provides an opportunity for the offender and victim to agree what the offender will do to address the harm. Agreements must be realistic and in line with the offence. They also must be monitored to hold the offender accountable for completing any agreed actions.

<table>
<thead>
<tr>
<th>Example 1 - complies with principle 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>An offender pleaded guilty but at pre-conference blamed his offending on the fact that he was drunk at the time. The facilitator challenged him by pointing out that being drunk is not a reason for committing crime and reminding him that he had entered a guilty plea. In this example, the offender was held to account.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Example 1 – does not comply</th>
</tr>
</thead>
<tbody>
<tr>
<td>An offender pleaded guilty but at the initial meeting said he did not commit the offence and that he had just pleaded guilty to get through the court process. In this case the offender is not accountable and if the facilitator proceeded to conference principle 4 would not be complied with.</td>
</tr>
<tr>
<td>Example 2 – complies with principle 4</td>
</tr>
<tr>
<td>-------------------------------------</td>
</tr>
<tr>
<td>An offender pleaded guilty to wilful damage. A restorative justice conference was held and the offender agreed to repair the fence and letterbox he broke and to pay $100. The offender’s support person, his uncle, agreed to monitor and check the agreements were met. The facilitator contacted the uncle and the victim and found out that the offender had repaired the fence and paid the $100. The progress was reported to the court prior to sentencing. By his positive actions the offender demonstrated accountability and principle 4 has been complied with.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Example 2 – does not comply</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the above case, there was no monitoring agreed at conference. The offender did not repair the fence and/or pay the $100. The facilitator did not do a follow up check with the uncle or the victim and the court was not informed of the lack of action prior to sentencing. Principle 4 is not complied with. The offender has not been held accountable.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Example 3 - complies with principle 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>An offender has pleaded guilty to wilful damage. While high, she smashed up a car with a sledge hammer causing $4500 of damage. The car is insured and the excess on the insurance is $500. In the restorative justice conference the offender agreed to pay the victim $1000 to cover the insurance excess and to make up for the stress and hassle of being without a car for a period of time. She also agreed to undertake a drug assessment. Monitoring was agreed – the victim would text the facilitator when she received the $1000 and the offender would provide the result of her drug assessment to her lawyer prior to sentencing. In this case the offender has been held to account and the agreements are realistic.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Example 3 – does not comply</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the above case, the offender said at pre-conference that she would do nothing, did not want to address her drug addiction, could pay nothing and thought that any damage should be covered by insurance. If the facilitator proceeded with the restorative justice process, principle 4 would not be complied with, as the offender has not demonstrated accountability for the offence.</td>
</tr>
</tbody>
</table>
5. Tāwariwari, aro nui / Flexible and responsive

Restorative justice processes are FLEXIBLE AND RESPONSIVE to the needs of participants.

Restorative justice processes can be tailored to meet the cultural, emotional, spiritual and health needs of participants.

Restorative justice processes must be appropriate and responsive to the needs of participants, particularly the victim and offender who are the central participants (see principle 2).

Discussion and agreement on the restorative justice process may be required when the victim and offender are of different cultures.

Decisions about how the restorative justice conference will be run, including when and where it will be held, should be made on the basis of the participants’ wants and needs. In general, if there are conflicting needs, the victim’s needs are a priority.

**Example 1 - complies with principle 5**

An offender and victim both wanted to participate in restorative justice. The elderly victim lived 100km away and said she could not travel to meetings. The facilitators agreed to travel to her for the pre-conference and arranged to book a community hall in her town for the conference. The facilitators were therefore flexible and responsive to the needs of this victim.

**Example 1 – does not comply**

In the above example, suppose the facilitators told the victim that all meetings were held in their offices and that she would need to travel there for the pre-conference and the conference. This would not comply with principle 5 as they have not been flexible and responsive to the needs of this victim.
### Example 2 - complies with principle 5

An offender wanted to go to a restorative justice conference but wanted an elder (his support) to speak on his behalf. The victim wanted to go to conference so that he could talk directly to the offender and find out why he did what he did.

The facilitator talked to the offender and explained the need for him to speak for himself and discussed with him ways that he could be helped to do this. In this case the facilitator has been flexible to the needs of both.

### Example 2 – does not comply

In the above case, if the facilitator allowed the restorative justice process to continue where the needs of victim and offender were in conflict, then this would not align with principle 5.

### Example 3 - complies with principle 5

A Māori offender and his whānau support wanted to start and end the restorative justice conference with a karakia. The victim, an atheist, said he objected to starting the conference with a karakia. The facilitator obtained the victim’s agreement to start and end the meeting with a non-religious whākatoki (or proverb). In this case the facilitator has been flexible and met the needs of both parties.

### Example 3 – does not comply

In the above case, if the facilitator listened to the victim's objection and then explained, “We always start and finish with a prayer”, then the process followed has not been flexible and responsive.
6. Haumaru / Safe

Restorative justice processes are SAFE for participants.

*Safety underpins all decisions made by facilitators and providers.*

Restorative justice processes should be safe for participants at all times. Restorative justice is a complex process often involving vulnerable people. Risks can be present both during and after the restorative justice process.

The risk of going to conference needs to be assessed and documented at pre-conference. Strategies need to be decided, documented and implemented to mitigate each and every risk.

Participants need to be assured of protection from abuse or intimidation in the restorative justice process. The restorative justice process need to be stopped if it is unsafe to continue.

Participants’ privacy must be protected. The restorative justice process, while private, is not confidential (because a report goes to the court). However, the restorative justice facilitator is bound to keep the process and all details, including participants’ personal information, confidential. For example, victims’ contact details, and details of offenders’ criminal history must not be disclosed without consent.

Support for both victim and offender is linked to safety. Both the victim and the offender should be encouraged to have support people. Support can hold the offender to account and encourage and support completion of agreed actions. Support for the victim is also important, helping the victim prepare for the conference, supporting them through the conference and providing a sounding board afterwards.

### Example 1 - complies with principle 6

A restorative justice conference was proposed between 4 offenders and a victim they attacked and robbed. A risk was identified that at conference, the victim may feel intimidated by the presence of the 4 offenders. The facilitators planned a strategy whereby, with the victim’s agreement, they ran separate conferences for each offender.

### Example 1 – does not comply

In the above case if the facilitators ignored or overlooked the risk they have not acted safely.
Example 2 - complies with principle 6
A pre-conference was held with a victim of a home burglary. She had no support with her and the facilitators found that she was extremely scared about meeting the burglar and was also anxious that he may come back to her home. The facilitators discussed and agreed suitable support with her and arranged another pre-conference with her and her whānau.

Example 2 – does not comply
In the above case, if the facilitators decided that for practical reasons they would proceed to conference without support for the victim, then the victim’s safety would have been compromised.

Example 3 - complies with principle 6
An offender wanted his father who lived in another city to be his support. The father would have to fly in for both the pre-conference and conference and the offender asked that the pre-conference and conference be on the same day. To accommodate this request and still ensure safe practice the facilitators did a first pre-conference with just the offender then booked a second pre-conference with the offender and his father the morning of the conference. A two-hour break was scheduled between the pre-conference and the conference to ensure time for risk assessment and preparation of a conference risk management plan. It was made clear to the offender that the conference would only proceed if the facilitators decided it was safe to do so. The victim agreed with the arrangement.

Example 3 – does not comply
Facilitators had a very tight timetable for a restorative justice case. They decided to have initial meetings with the victim and offender, one after the other, and then the conference straight after that, all on the same day. There was no time between the pre-conferences and the conference to prepare a conference risk management plan. The facilitators therefore took unnecessary risks by omitting to do risk assessment and safety planning.
Practice exercise 5

This practice checks your understanding of the 6 principles of restorative justice. It is an important practice in that it requires your judgement on whether particular scenarios comply or do not comply. In each of the scenarios that follow you are asked to identify which principle (or principles) has not been complied with and give a reason for the non-compliance.

1. An offender and victim agree in conference that the offender will complete a defensive driving course by May 1st and that he will do 40 hours gardening work at a local old people’s home. Follow-up by the facilitator reveals that he has not started the course and has not even contacted the old people’s home. What principle is at stake here and why?

   *Does not comply with -*

   *Because -*

2. A conference is held between an Indian offender and an Indian victim. No Indian facilitator is available and both parties struggle with English. No interpreter is offered by the facilitator. What principle is at stake here and why?

   *Does not comply with -*

   *Because -*

3. An offender and his support person both turn up to conference wearing gang patches. The victim is a shy 19 year old with mother as support. The facilitators proceeded with the conference. What principle is at stake here and why?

   *Does not comply with -*

   *Because -*
4. A victim of a burglary is a busy person but is prepared to go to restorative justice in the belief that it will help the offender understand the impacts burglary has had and in the hope that will deter the offender from re-offending. The victim is only available weekends. The facilitators tell the victim that they only do work hours on week days.

*Does not comply with* -

*Because* -

5. At a community panel conference, in the outcomes discussion, the two panelists start out by getting the offender to agree that he will do 40 hours of community work at the marae. The victim is then asked if he has any suggestions he would like to add.

*Does not comply with* -

*Because* -

6. At a conference, the offender turns up with an extra support person, her father. The victim is already seated with her support and ready to start. The facilitators decide to go ahead as the offender’s original support (her mother) is also present. At the conference the father blames the victim and is very defensive of his daughter.

*Does not comply with* -

*Because* -

7. At preconference an offender says that while she committed the assault and has pleaded guilty, she was not really responsible as the victim started it and pushed her. The offender wants the opportunity to tell the victim what she thinks of her for calling the police and getting the whole thing blown out of proportion.

*Does not comply with* -

*Because* -
8. At a conference the 18-year-old offender is shy and reluctant to tell her story. Her support, her father, is very talkative and when the victim asks the offender a question the father answers on her behalf. The facilitators do not intervene as they consider whānau has the right to speak for her.

*Does not comply with*

*Because*

9. A first offender is told by police that he might be eligible for diversion if he participates in restorative justice. The offender is keen to participate. The victim, his landlord, does not want to participate but says that she feels that she has to otherwise, “that man could lose his job”. The facilitators agree and tell her that it could benefit her too to go to restorative justice.

*Does not comply with*

*Because*

10. A victim lives out of town but is happy to drive 2 hours for a restorative justice process but only wants to make one trip. The facilitators agree to pre-conference the victim by phone and they also send the victim a pamphlet explaining restorative justice. The victim is bringing a friend as support and says she will explain restorative justice to her friend. At the conference the victim’s support says to the offender, “I didn’t come all this way to hear how this has affected you and your family. You’re not the one that matters here.”

*Does not comply with*

*Because*

11. At a conference the offender is asked what happened to the stolen goods. He asks the facilitator, “Do I have to answer that?” and the facilitator says, “Yes that is an important question that the home owners really want an answer to”.

*Does not comply with*

*Because*
**Practice 5: Feedback**

1. An offender and victim agree in conference that the offender will complete a defensive driving course by May 1st and that he will do 40 hours gardening work at a local old people’s home. Follow-up by the facilitator reveals that he has not started the course and has not even contacted the old people’s home. What principle is at stake here and why?
   *Does not comply with - ‘accountability’.*
   *Because - his failure to take the agreed actions indicates he has not taken responsibility for the harm he caused. If the facilitator reports the lack of action it can be taken into account in sentencing and the offender held to account by the court.*

2. A conference is held between an Indian offender and an Indian victim. No Indian facilitator is available and both parties struggle with English. No interpreter is offered by the facilitator. What principle is at stake here and why?
   *Does not comply with - ‘flexible and responsive’.*
   *Because - the facilitator could have provided an interpreter so all parties would know what is being said.*

3. An offender and his support person both turn up to conference wearing gang patches. The victim is a shy 19 year old with mother as support. The facilitators proceeded with the conference. What principle is at stake here and why?
   *Does not comply with - ‘safe’.*
   *Because - the victim and the support could feel intimidated.*

4. A victim of a burglary is a busy person but is prepared to go to restorative justice in the belief that it will help the offender understand the impacts burglary has had and in the hope that will deter the offender from re-offending. The victim is only available weekends. The facilitators tell the victim that they only do work hours on week days.
   *Does not comply with - ‘flexible and responsive’.*
   *Because - the facilitators have not met the needs of the victim.*

5. At a community panel conference, in the outcomes discussion, the two panelists start out by getting the offender to agree that he will do 40 hours of community work at the marae. The victim is then asked if he has any suggestions he would like to add.
   *Does not comply with - ‘central participants’.*
6. At a conference, the offender turns up with an extra support person, her father. The victim is already seated with her support and ready to start. The facilitators decide to go ahead as the offender’s original support (her mother) is also present. At the conference the father blames the victim and is very defensive of his daughter. *Does not comply with – (1) ‘understanding’ and also (2) ‘safe’.*

1. Because - the new support person has not been informed by the facilitator and does not fully understand their role.
2. Because - the facilitator failed to assess the new support person for suitability prior to the conference.

7. At preconference an offender says that while she committed the assault and has pleaded guilty, she was not really responsible as the victim started it and pushed her. The offender wants the opportunity to tell the victim what she thinks of her for calling the police and getting the whole thing blown out of proportion. *Does not comply with - ‘accountability’.*

Because - the offender is not taking responsibility. The facilitators in this case would not proceed with the restorative justice process.

8. At a conference the 18-year-old offender is shy and reluctant to tell her story. Her support, her father, is very talkative and when the victim asks the offender a question the father answers on her behalf. The facilitators do not intervene as they consider whānau has the right to speak for her. *Does not comply with - ‘central participants’.*

Because - the victim has not been able to talk directly to the offender. The facilitators would have needed to ask the father to let his daughter answer.

9. A first offender is told by police that he might be eligible for diversion if he participates in restorative justice. The offender is keen to participate. The victim, his landlord, does not want to participate but says that she feels that she has to otherwise, “that man could lose his job”. The facilitators agree and tell her that it could benefit her too to go to restorative justice. *Does not comply with - ‘voluntary’.*

Because - the facilitator has failed to advise that participation is a choice.
10. A victim lives out of town but is happy to drive 2 hours for a restorative justice process but only wants to make one trip. The facilitators agree to pre-conference the victim by phone and they also send the victim a pamphlet explaining restorative justice. The victim is bringing a friend as support and says she will explain restorative justice to her friend. At the conference the victim’s support says to the offender, “I didn’t come all this way to hear how this has affected you and your family. You’re not the one that matters here.”

*Does not comply with – (1) ‘understanding’ and (2) ‘safe’.

1. Because - the victim’s support person has not been adequately prepared by the facilitators and did not understand the restorative justice process and their role in it.

2. Because – the facilitators have taken an unnecessary risk in not pre-conferencing the victim’s support. If they had planned and documented this risk and had a strategy in place, this could have been avoided. For example, they could have arranged a face to face pre-conference with the victim and the support prior to the conference,

11. At a conference the offender is asked what happened to the stolen goods. He asks the facilitator, “Do I have to answer that?” and the facilitator says, “Yes that is an important question that the home owners really want an answer to”.

*Does not comply with - ‘voluntary’.

Because - the offender has been incorrectly told by the facilitator that he must answer a question.
Becoming a restorative justice facilitator

Before you finalize a decision to become a facilitator it pays to know exactly what the role involves and what the requirements are for facilitator training and accreditation.

The facilitator commitment

We have already covered what a facilitator does. In summary, for each referral a facilitator accepts, the job requires that you:

- Have a pre-conference meeting with both parties and assess the appropriateness of convening a restorative justice conference
- Assess risks and complete a conference risk management plan
- Facilitate a restorative justice conference and debrief afterwards
- Write the conference report, and, depending on agreements made, follow up afterwards.

Your provider may have its own job description for a facilitator.

To keep your skills current, it is recommended that you need to facilitate at least 5 conferences a year. Each conference will involve about a day of work (1-2 hours for each pre-conference, 1-2 hours for the conference, 2-3 hours writing the plan and writing the report). This does not count the time spent making phone calls, nor travel time. Often conferences and pre-conference meetings will be held in weekends and evenings, especially if the parties are working.

To achieve 5 conferences a year will mean accepting considerably more referrals, as many referrals do not go to conference. You can expect to handle about 10-15 referrals a year. Depending on the time they have available, some facilitators handle several cases a month.
Training and development of facilitators

Following selection as a facilitator the process for training and development of a new facilitator is as follows.

**Self study**
Complete 7 self-study modules

**Training course**
Attend 5 days of practical facilitation induction training

**Mentoring**
Mentoring starts with you working as a co-facilitator with an experienced facilitator. As your confidence and competence increases you will do more of the facilitation until you are able to do it all unaided. This generally takes 6-12 months and the expectation is that you will be ready to be accredited within 12 months of training.

**Accreditation**
When confident and competent in facilitation, you will apply to be assessed for accreditation. The assessment involves
- Submission of documentation
- Observation of your facilitation skills
- Professional conversation

**Continuing professional development**
Ongoing professional development is encouraged. You need to apply for renewal of your accreditation every 3 years, and to get this you need to show you have been doing enough restorative justice cases and have completed sufficient professional development to keep your skills current.
Facilitator performance improvement

Facilitators are encouraged to commit to ongoing performance improvement and there are several avenues to assist you in this:

**Peer feedback.** After every conference, facilitators are expected to debrief and in this to follow a peer feedback process that covers opportunities for improvement and what was done well. (You learn this process in module 8).

**Supervision** by your provider manager is another tool to aid your development. A good manager will monitor your performance and will give you feedback – not just on mistakes (and we all make those) but more importantly, on what you do well.

**Professional supervision** is different to supervision by your manager. Professional supervision is conducted by a trained and qualified professional supervisor who assists you to reflect on your practice, analyse it and identify opportunities for improvement. All facilitators are recommended to have professional supervision.

**Mentoring** by a peer and/or by an expert is another way to improve performance. In this respect, the debrief and feedback after a conference is absolutely critical. Facilitators need the opportunity to work with a variety of peers, as we all have a different style and you can learn something from everyone.

**Continuing professional development (CPD)** is another important development tool. Professional development can be formal or informal. Formal learning may be financed by your provider (for example, going to conferences, seminars, courses). Informal professional development is just as important – reading books, papers, listening to podcasts, watching webinars and videos.

Accredited facilitators are required to do at least 10 hours per year of CPD and to show evidence of this as part of maintaining their accreditation status.
Ministry of Justice policy

The Ministry of Justice has quality standards for the delivery of restorative justice services. These quality standards are reflected in this training and in the accreditation standards.

Here is what to do


for a pdf of the ‘Restorative justice best practice framework’, 2017. Print out this pdf and read it because this document contains the standards for restorative justice that all facilitators need to meet. You will be asked questions about the standards in your assessment for this module so you will need to refer to this document and be familiar with it.

Policy on family violence and sexual violence cases

A family violence case referral requires that one of the facilitators is endorsed (qualified) to work with family violence cases.

The Ministry has practice standards for family violence cases. It is important that all facilitators understand what family violence is, because if you are allocated a family violence case in error, you need to recognize the case as involving family violence and tell your manager.

Violence may not be physical. The Ministry’s ‘Practice standards for family violence cases’ lists the following.

- Psychological abuse
- Emotional abuse
- Physical abuse
- Sexual abuse
- Online abuse
- Financial abuse
- Social abuse
- Spiritual abuse

Family means not just husband and wife. Different communities have their own understanding of what constitutes family. The Ministry’s ‘Practice standards for family violence cases’ groups family into three broad categories.

- Intimate partner violence
- Intrafamilial violence – for example, elder abuse or sibling violence
- Child abuse and neglect
Relationships that may not be immediately thought of as ‘family’ are included in the legal definition of ‘domestic relationships’. For example, people who normally share a household (e.g. flatmates) and people who share a close personal relationship (e.g. an elderly or disabled person and their carer).

In any family violence case referred to restorative justice, at least one of the facilitators must have “Family violence endorsement”. This is an additional specialist qualification, over and above accreditation as a restorative justice facilitator.

The Ministry also has practice standards for sexual violence. Only certain providers can handle sexual violence cases. The sexual violence cases must be facilitated by a facilitator (from a specialist group) who holds “Sexual violence endorsement”.

A new facilitator who has a background in one of the specialist areas can apply for and be assessed for specialist endorsement at the same time as their facilitator accreditation. An accredited restorative justice facilitator can obtain specialist endorsement if they can show the required level of knowledge and experience in the specialist area.

Policy relating to children

It is Ministry of Justice policy that children and youths (under 18) are not involved in restorative justice except in special circumstances. In these special circumstances special care and consideration needs to be undertaken. Refer to standard 8 in the ‘Restorative justice best practice framework’.

Special care includes consulting a specialist such as an Oranga Tamariki social worker, a school counsellor or a family counsellor. The child must always be supported at the conference by a parent or guardian or specialist.

An example of a circumstance where a child or youth may benefit from attending a conference might be a burglary case, where a child may have an overblown fear of the burglar and would benefit from seeing he is just a young person. You saw an example of such a case in video 1.

It is important for providers and their facilitators to keep up to date with Ministry policy as the restorative justice service is constantly evolving and improving.
The final practice in this module checks your knowledge and understanding of Ministry of Justice policy on facilitation. Complete this practice and check your answers against the practice feedback before you complete the assessment for this module.
Practice exercise 6

To answer the questions in this practice you will need to refer to the ‘Restorative justice best practice framework’ as well as this section of your module.

1. When a provider arranges a pre-conference with a victim or an offender, what are three things the provider needs to do?
   1. 
   2. 
   3. 

2. What is the name of the plan facilitators must document before a restorative justice conference?

3. What are the two things that conference outcomes MUST be?
   1. 
   2. 

4. A brother aged 18, is charged with assault of his half-sister. Is this a family violence case?

5. What qualification must at least one of the facilitators have to facilitate a family violence case?

6. What qualification must a facilitator have to facilitate a sexual violence case?

7. A flatmate stole property from other flatmates and deliberately damaged the flat leaving them to pay for the damage. Could this be classed as family violence?
Practice 6: Feedback

Compare your answers with those below.

1. When a provider arranges a pre-conference with a victim or an offender, what are three things the provider needs to do?

   1. Encourage attendance of suitable support people
   2. Ascertain any particular needs of participants
   3. Agree the venue, date and time

2. What is the name of the plan facilitators must document before a restorative justice conference?

   The conference risk management plan

3. What are the two things that conference outcomes MUST be?

   1. Participant-driven
   2. Understood by all participants.

4. A brother aged 18, is charged with assault of his half-sister. Is this a family violence case?

   Yes

5. What qualification must at least one of the facilitators have to facilitate a family violence case?

   Family violence endorsement

6. What qualification must a facilitator have to facilitate a sexual violence case?

   Sexual violence endorsement
   PLUS
   They must be working for a provider that is approved by MoJ to handle family violence.

7. A flatmate stole property from other flatmates and deliberately damaged the flat leaving them to pay for the damage. Could this be classed as family violence?

   Yes
Assessment: Restorative justice process and principles

Time to assess your competence. The assessment for this module is done on-line. Go to the Resolution Institute website http://www.resolution.institute/restorative-justice/training-modules to complete your assessment. Please note the following:

- You can use the module and the ‘Restorative justice best practice framework’ to do the assessment – it is an open book assessment.
- Do the assessment alone – it is your knowledge and understanding we need to assess.
- The assessment comprises 30 questions which are all ‘yes/no’, multi choice or ‘arrange in order’ type questions. The pass rate is 27 answers correct, 90%.
- You can have up to three attempts at the assessment. The computer selects questions randomly from a question bank, so the questions will differ in each assessment although some will be the same.
- The computer will tell you after each question whether your answer is correct and what the right answer is. At the end of the assessment you will get your score and you will also get an email with your score.
- If you do not get 90% correct the first time, re-read your module and make sure you have done ALL the practices in the module before you have another attempt.
- Once you have successfully completed the assessment, the computer will record your success for us. Please proceed then to module 6 – see note below.

If you have any problems or questions about the assessments contact Resolution Institute on rj@resolution.institute or 0800 453 237.

NOTE

When you have completed the assessment for module 1, move on to do module 6. You can do modules 2-5 at any time but
module 6 requires that you observe a real conference so it is really important to get on to doing module 6 NOW please.
## Appendix: Reading list

Facilitators often ask about extra reading, so PACT has put together a short reading list for you.

<table>
<thead>
<tr>
<th>Title</th>
<th>Author(s)</th>
<th>Publisher</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Changing Lenses”</td>
<td>Howard Zehr</td>
<td>Herald Press</td>
</tr>
<tr>
<td>“Restorative Justice and Family Violence”</td>
<td>Heather Strang and John Braithwaite</td>
<td>Cambridge University Press</td>
</tr>
<tr>
<td>“Violent Partners”</td>
<td>Linda Mills</td>
<td>Basic Books</td>
</tr>
<tr>
<td>“Invitations to Responsibility”</td>
<td>Alan Jenkins</td>
<td>Dulwich</td>
</tr>
<tr>
<td>“Restorative Justice Practices in New Zealand”</td>
<td>Gabrielle Maxwell and James Liu</td>
<td>Institute of Policy Studies</td>
</tr>
<tr>
<td>“Restorative Justice - how it works”</td>
<td>Marian Liebmann</td>
<td>Jessica Kingsley</td>
</tr>
<tr>
<td>“Little Book of Circle Processes”</td>
<td>Kay Pranis</td>
<td>Good Books</td>
</tr>
<tr>
<td>“Korero Tahi”</td>
<td>Joan Metge</td>
<td>Auckland University Press</td>
</tr>
<tr>
<td>“Little Book of Restorative Justice for Colleges and Universities”</td>
<td>David Karp</td>
<td>Good Books</td>
</tr>
<tr>
<td>“Transcending - Reflections of Crime Victims”</td>
<td>Howard Zehr</td>
<td>Good Books</td>
</tr>
<tr>
<td>“Circle Forward”</td>
<td>Carolyn Boyes-Watson and Kay Pranis</td>
<td>Living Justice Press</td>
</tr>
</tbody>
</table>