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Introduction

Whakatauki

Ko te Kōrero te Kai o te Rangatira.

Discussion is the food of chiefs.

Purpose

The purpose of this module is to clarify and hone the communication skills you will use when facilitating restorative justice meetings.

The module aligns with the restorative justice principles of ‘safety’ and ‘understanding’. To ensure safety you need to use your good questioning and listening skills to gather full information and identify all possible risks. To ensure participants are well informed and fully understand, you need to be able to give information clearly and simply.

You are completing this module before the face-to-face course ensures you will be at the required entry level of verbal communication skills prior to starting the face-to-face course. That, in turn, ensures the smooth running of the course role-plays.
Learning objective

In this module you learn to:

1. Ask questions and listen attentively
2. Answer restorative justice participant questions

You will work with:

A restorative justice participant in a role-play discussion.

The standards expected are:

When questioning and listening:
- At least 75% (3 out of 4) questions are open, relevant, and do not lead (suggest the answer)
- Reflection is used to reflect both facts and feelings
- Key points are summarized

When answering participant questions:
- Answers are clear and short
- Language used matches the recipient’s vocabulary
- Information is factual
- No private information is disclosed
- Explanations of restorative justice include relevant benefits
- Suggestions are avoided

What's in this module

In this module you will learn about:

- Asking questions
- Listening attentively
- Answering questions

The non-verbal communication skills will be addressed face-to-face on the course.
Pre-requisites

You need to have successfully completed Modules 1-6 before you can complete the assessment for this module. You can, however, complete the module content and practices whenever you wish.

Instructions for working through this 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, plus it will give you the opportunity to practice your questioning and listening skills.
- 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 this module you can take the assessment. The assessment involves a casual phone discussion with two fun role-plays.
- **Note** that if you are already confident in your communication skills, you could go straight to the assessment. It would pay, however, to look at the practice exercises first to ensure you are clear on expectations which are specific to restorative justice.
What communication skills are needed

In restorative justice you use different communication skills in the pre-conference and in the conference.

In the **pre-conference** you are talking directly with the offender (or victim) and their support. You are finding out all the information that you need so you can make a decision on risks and whether to go to conference. To be effective in finding out this information you will be:
- Questioning – the number one skill needed
- Probing for specifics
- Listening attentively – reflecting, giving verbal encouragers etc
- Summarising.

You will also be giving information about restorative justice so that the participants are well informed and can make a decision on whether they want to go ahead.

The pre-conference is a one-on-one direct communication. The participants are talking with you, the facilitator.

![Diagram showing two people communicating](image)

The **conference** is quite different in that you want the offender and victim to talk directly to one another – not to you. This requires that you modify your communication skills. You will be asking questions to steer the conversation but will ask them in a different way.

**NOT**  
What was happening for you that day?

**BUT**  
Tell Joan and Pete what was happening for you that day.

You will not be reflecting, giving good eye contact and encouraging nods to the speaker, because you want the speaker to talk to the other party, not to you. You want to keep out of the conversation as much as possible. This can be very difficult for someone who is used to controlling the conversation.
The communication pattern for a good conference is shown in the diagram above. The participants are coloured and the facilitators are black. Ideally, the communication will be direct between the participants and the facilitators will be doing very little other than listening and taking notes.

To encourage participants to talk directly to one another in the conference you will mainly use:
- Questioning – but the questions will be worded differently to those at pre-conference
- Summarising to keep discussion on track and redirecting as needed
- Listening and observing without attending

You will also be giving clear information and answering any questions clearly.

In this module we will cover the verbal communication skills you will use in a pre-conference. You will learn about adjusting your skills at a conference on the face-to-face course.
Questioning

Introduction

The key skills for good pre-conference facilitation are questioning and attentive listening. Good questioning requires you to ask questions that are:

- Open
- Relevant
- Do not lead

Open questions

Open questions cannot be answered with a simple ‘Yes’ or ‘No’. They are useful because they:

- Require you to stay in the facilitator role and not take control
- Give you insight into the participant’s opinions, interpretation, thinking
- Enable you to challenge the participant in a non-threatening way
- Encourage the participant to come up with his/her own ideas

Useful open questions start with

**How**

**What**

**When**

**Which**

**Where**

**Who**

**Why**

Note that the start words, ‘How’ and ‘What’, have been highlighted in red. That is because these are the most open questions and by far the most common starters.

Other useful ‘openers’ that work as open questions are

**Tell me about……**

**Explain .....**

**Give me an example of ...**
Why? Needs to be used with care. Depending on the tone / volume / strength of the relationship / situation, it can imply criticism. If you’re looking for an explanation try ‘What were the reasons …?’

Asking open questions is a bit like fishing – you dangle a fishing line, not knowing for certain what you might pull up on the line!

Examples of open questions for a pre-conference are:

- What were you doing that morning?
- How did you choose which house?
- What were you planning to do with the goods?
- What impact has it had on your whānau?
- How do you think she might have felt about that?
- When can you get that done by?
- What questions do you have?
Closed Questions

Closed questions can be answered with a ‘Yes’ or ‘No’. Asking closed questions is a bit like hunting – you fire at a specific target, expecting a specific response. They are sometimes called ‘shooting’ questions.

Closed questions are generally only useful when you:
- want to check out your own understanding (of fact, opinion, feelings)
- want to confirm commitment.

Closed questions typically start with:

**Is that ...**
- **Was it ...**
- **Do you ...**
- **Has that ...**
- **Will he ...**
- **Could that ...**
- **Can you...**
- **Does that ...**

Any question that allows a ‘Yes’ or ‘No’ answer is ‘closed’ and encourages the speaker to provide only a short, specific answer. They do not encourage the person to tell their story and give more information.

Examples of closed questions are:
- *Will you do the full course of 6 counselling sessions?*
- *You didn’t plan to frighten her did you?*
- *Do you want to apologize for what you did?*

While closed questions do have a place, they need to be avoided in the pre-conference and conference where you want open discussion. Use of closed questions indicates the facilitator is controlling the conversation, and the conversation tends to sound interrogatory rather than open.
**Practice 1: Open questions**

For the following questions asked at pre-conference:

1. Indicate whether each question is open or closed (O or C)
2. Re-write closed questions to make them open questions

<table>
<thead>
<tr>
<th>Question</th>
<th>O / C</th>
<th>Re-write</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tell me about the lead up to that?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Are you associated with a gang?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. How did you dispose of the goods?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. What have you done so far?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Has this had a big effect on your whānau?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Would you like the offender to pay reparation for that?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. What could she do to make up for that?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Is that achievable?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Could that information help you?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Could you do some work or pay some money to make amends?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Were you on drugs or drunk at the time?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

When you have finished turn to the next page to check your answers.
**Practice 1: Answers**

Evaluate yourself against these suggested answers. Your re-written questions may be worded differently, but are fine provided they are open – start with What, How, Why, etc.

<table>
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<tr>
<th>Question</th>
<th>O / C</th>
<th>Re-write</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tell me about the lead up to that?</td>
<td>O</td>
<td></td>
</tr>
<tr>
<td>2. Are you associated with a gang?</td>
<td>C</td>
<td>What gang association do you have?</td>
</tr>
<tr>
<td>3. How did you dispose of the goods?</td>
<td>O</td>
<td></td>
</tr>
<tr>
<td>4. What have you done so far?</td>
<td>O</td>
<td></td>
</tr>
<tr>
<td>5. Has this had a big effect on your whānau?</td>
<td>C</td>
<td>What have the effects been on your whānau?</td>
</tr>
<tr>
<td>6. Would you like the offender to pay reparation for that?</td>
<td>C</td>
<td>What would you like the offender to do about that?</td>
</tr>
<tr>
<td>7. What could she do to make up for that?</td>
<td>O</td>
<td></td>
</tr>
<tr>
<td>8. Is that achievable?</td>
<td>C</td>
<td>How achievable is that?</td>
</tr>
<tr>
<td>9. Could that information help you?</td>
<td>C</td>
<td>How useful is that information?</td>
</tr>
<tr>
<td>10. Could you do some work or pay some money to make amends?</td>
<td>C</td>
<td>What could you do to make amends?</td>
</tr>
<tr>
<td>11. Were you on drugs or drunk at the time?</td>
<td>C</td>
<td>How sober and straight were you at the time?</td>
</tr>
</tbody>
</table>
Effective questions are **relevant** to what has been said. For example a discussion at pre-conference about a home burglary is:

**Q**  *What have the effects been on the children?*

**A**  *Oh dreadful – little Toby won’t sleep by himself at night and he has nightmares and wakes up screaming. Mary has started wetting the bed again and Toby has to sleep with the light on.*

**Q**  *That sounds pretty major. What help are they getting to overcome those fears?*

An example of a follow-up question **not** being relevant is:

**Q**  *What did the burglar take?*

**Tips to asking relevant questions are:**
- really listen to what has been said
- allow yourself a **pause** to consider what was said before deciding the next question
- ensure your next question is relevant to what was said
Questions that do not lead

Effective questions do not lead, that means they do not suggest an answer. Examples of leading questions asked at pre-conference are:

- You won’t turn up under the influence of alcohol, will you?
- Are you sorry because you hurt her or just sorry because you got caught?
- You said you have a drinking problem. Do you think it would be a good idea to have an alcohol and drug assessment?

Note that leading questions are invariably closed questions.

Examples of questions that do NOT lead are:

- How can I be sure you will turn up sober?
- What are you sorry for?
- You said you have a drinking problem. What do you want to do about it?

These non-leading questions are all open questions. Note too that open and non-leading questions are invariably short.
Practice 2: Open questions for a pre-conference

Rewrite the final question in each of the scenarios below, so that the question is open, relevant and not leading. The case is a burglary and the participants are:

Toby  Offender
Tim   Offender support (Toby's father)
Sue   Victim (House owner)
Sam   Victim’s support (Sue’s partner)

Scenario 1: Pre-conference with offender and his father

Facilitator  Take me back to the start of that day and walk me through what happened leading up to the burglary.

Toby  I was just mucking around at home and then my mate Hepa called and we went to walk to the mall and we saw this car with bikes on the back and stuff.

Facilitator  Did you think you’d just take the bikes?

What is wrong with this last question?

Re-write of last question

Scenario 2: Pre-conference with offender and his father

Facilitator  When you had put all the gear behind the bushes, what then?

Toby  We loaded it in the car and took it back to my place.

Facilitator  Were you going to sell it?

What is wrong with this last question?

Re-write of last question
Scenario 3: Pre-conference with victim and her partner

Facilitator  What happened when you walked inside?

Sue  I was totally shocked. There was stuff everywhere. My drawers were all out and my clothes all over the place. I just burst into tears and then rang Sam and then my girlfriend and they all came.

Facilitator  Why did you burst into tears?

What is wrong with this last question?

Re-write of last question

Scenario 4: Pre-conference with victim and her partner

Facilitator  Sam, what effects have you noticed?

Toby  It’s mainly been Sue affected because it is all her stuff that has been stolen. She was so upset it really affected her. She got obsessed about cleaning everything but that’s over now. The main effect has been her fear. We have had the locks changed and alarms put in but she is still nervous at night.

Facilitator  Have there been effects on you too or are you pretty much unaffected?

What is wrong with this last question?

Re-write of last question
Practice 2: Feedback

Your re-written questions will not be the same but are fine if they are open, do not lead and are relevant to what has been said.

Scenario 1: Pre-conference with offender and his father

Facilitator  Take me back to the start of that day and walk me through what happened leading up to the burglary.

Toby  I was just mucking around at home and then my mate Hepa called and we went to walk to the mall and we saw this car with bikes on the back and stuff.

Facilitator  Did you think you'd just take the bikes?

What is wrong with this last question?
The question is closed and is leading – it suggests an answer.

Re-write of last question
What then?

Scenario 2: Pre-conference with offender and his father

Facilitator  When you had put all the gear behind the bushes, what then?

Toby  We loaded it in the car and took it back to my place.

Facilitator  Were you going to sell it?

What is wrong with this last question?
Again the question is leading and suggests an answer. It is also not open.

Re-write of last question
What did you plan to do with it?
Scenario 3: Pre-conference with victim and her partner

Facilitator: What happened when you walked inside.

Sue: I was totally shocked. There was stuff everywhere. My drawers were all out and my clothes all over the place. I just burst into tears and then rang Sam and then my girlfriend and they all came.

Facilitator: Why did you burst into tears?

*What is wrong with this last question?*

The question is not relevant and ‘why’ questions can be confronting.

*Re-write of last question*

What happened then?

Scenario 4: Pre-conference with victim and her partner

Facilitator: Sam, what effects have you noticed?

Toby: It’s mainly been Sue affected because it is all her stuff that has been stolen. She was so upset it really affected her. She got obsessed about cleaning everything but that’s over now. The main effect has been her fear. We have had the locks changed and alarms put in but she is still nervous at night.

Facilitator: Have there been effects on you too or are you pretty much unaffected?

*What is wrong with this last question?*

The question is closed and it is leading in that it gives only two possible answers.

*Re-write of last question*

How have you been affected?
Probing

What is probing

Probing is continuing a line of questioning to get down to specifics. It is ‘hanging in’ with open questions until you have found out what you need to know. You may probe when the answers you get are:

- Vague, or too general
- Confusing, muddled, or apparently contradictory
- Emotive, exaggerated or misleading
- Non-committal (where you need a commitment)

When do you probe?

In the pre-conference when you need to get clear on what happened and why.

Probing needs to be done in a non-threatening way and is not used to back someone into a corner.
How to Probe: The Funnel

Think about probing like going down a funnel to get to the specific pieces of information you need.

You start at the top of the funnel with a broad open question, for example, ‘Tell me about’ or ‘Talk me through…’. In response to the answers you get, you keep getting more specific with your questions until you really understand.

Note: The most useful questions in probing are OPEN questions that often pick up on key words that have been said and dig deeper. For example:

Q  What could you offer the victim to make up for the harm you have caused?
A  I’ll do anything. I don’t know what he wants
Q  Joan, you said you are prepared to do anything to make amends. What are some ideas for what you could do?
A  I’d like to do something about my drinking because that is what gets me into strife.
Q  That is a great idea to tackle the drinking. What did you have in mind?
A  I want to talk to my doctor and see if I can go on antabuse.

............ and so on

To avoid your questions sounding like an interrogation:

- Ask questions at a conversational pace with a friendly, enquiring tone
- Pause after each answer
- Never try to ‘catch out’ the speaker or back him/her into a corner
- Be generous with praise.
Practice 3: Asking questions and probing

In this practice the focus is on asking open questions. It is a good idea to practice this as the assessment for this module includes your asking questions and probing.

You can complete this practice with any volunteer – maybe a colleague, family member or friend. It is a fun practice and you can set it up as a game.

You are asked to interview your volunteer for 5-10 minutes and in that time to only ask open questions. You can interview on any topic you wish. There are some instructions for your volunteer below. Please ask him or her to read them carefully.

Instructions for volunteer
You are going to be interviewed on a topic of your choice. What the interviewer is doing is practicing asking open questions. Open questions are questions that cannot be answered with ‘Yes’ or ‘No’. For example:

*What do you think .....* is an open question
*Do you think that .....* is a closed question because you could answer it ‘Yes’ or ‘No’.

Your job is to listen very carefully to each question the interviewer asks and whenever you get a question that is closed you answer it with ‘Yes’ or ‘No’ and give zero further information.

When you do get a good open question, answer it but keep your answer short or a bit waffly so that the interviewer has a chance to follow up with another open question.

Keep a piece of paper by you and for each question asked record a C (closed) or O (open). At the end, the interviewer can add up the numbers and is expected to attain at least 75% (3 out of 4) open questions.

Note that it is good if the interviewer takes their time to think up good questions so do not hurry and expect a few long pauses. Long pauses are fine.
Practice 3: Feedback

You are expected to achieve at least 75% (3 out of 4) open questions and to probe with follow-up questions when you get unclear answers.

Repeat the practice until you can readily attain the 75% standard.

Note that it is a good idea to practice with a range of volunteers as some are better than others at this role-play.
Listening attentively

Introduction

Another foundation skill for successful facilitation is that of listening attentively.

Effective questioning also requires attentive listening. We chose to cover questioning first but the two, listening and questioning, are bound together.

Listening is much more than just hearing. Listening attentively enables you to ‘really hear’ and understand what they are meaning.

Being an attentive listener involves the skills of attending, reflecting, summarising.

Listening skill standards

These standards are expected of you:

Attending
- You avoid distractions
- You show positive non-verbals (open posture, eye contact, nods, smiles etc)
- You pause before speaking
- You observe the speaker
- You give verbal encouragers

Reflecting
- You reflect understanding or feelings

Summarising
- You summarize key points and decisions
Attending

Attending requires you to give full attention and to absorb yourself in what the speaker is saying. Note that this is relevant to the pre-conference meeting and does not apply to the conference (where you want to encourage parties to talk directly to one another).

Attending is shown through:

Not distracting a speaker

Examples of distracters are:

- You looking elsewhere – at another person, out the window, at your mobile or watch
- Fiddling
- Writing or reading (while the other person is talking)

Showing positive non-verbals

1. Open body posture shows you are attending.

Examples of open body posture:

- Turning to face the person speaking
- Keeping a comfortable distance apart
- Palms open

Examples of non-open body posture (or blocks) are:

- Twisting - away from the person speaking
- Leg across - blocking
- Arms folded high - across the chest
- Arms behind the head
2. Eye contact
Eye contact shows you are listening, so it is important to maintain eye contact while the other person is talking. This does not mean staring – it is gentler than that. If you feel uncomfortable making eye contact, try looking at the tip of their nose instead.

In some cultures direct eye contact may be seen as challenging and so, as with all listening skills, you adapt to suit who you are talking to.

3. Using non-verbal encouragers
Examples are:
- head nods
- smile
- raised eyebrow
- open hand gestures

Pausing before speaking
Both pace and pause indicate you are attending. When you really listen to what another person is saying, you need time to consider what has been said before you can come up with a relevant question. Pause indicates attentive listening. On the other hand, lack of pause may indicate you have been thinking about what you will say or ask while the other person is still talking. That means you have not really been listening to them.

Observing the speaker
You watch their facial expressions and body language, as this can sometimes tell you more than the words.

Giving verbal encouragers
These are the short words of encouragement given to encourage the speaker. For example, ‘ah ha’, ‘yes’, ‘good’, ‘right’, ‘thanks’.
Reflecting

A reflection is taking the essence of what the speaker has said/or is feeling and putting it into your own words. A reflection is normally worded as a short statement or a closed question.

**Reflections** are used to check:
- Your understanding of what the other person has said – perhaps a key point or complex issue.
- or
- how the other person is feeling.

Reflections also indicate that you are listening attentively. Note that reflection is used in pre-conference meetings but is rarely used in a conference, where you want to encourage parties to talk directly to one another.

For example, if someone says at pre-conference: 
*He doesn’t take any notice of me. He just laughs or says something obnoxious. I have spoken to him about the drug taking many times. Well at least 3 times. I just don’t know what to do next.*

A reflection of understanding might be: 
*So you have discussed the drug taking?*

A reflection of feeling might be: 
*It sounds like you’re really frustrated with him – is that right?*

**When to reflect**

- During the pre-conference
- When you want to show someone you have really heard what they are saying
- If a person is expressing noticeable emotion – reflect their feelings (if appropriate) to show you have noticed.

**Warnings**

- Avoid reflection in the conference
- Use reflection sparingly – over use can be annoying
- When reflecting, use your own words and avoid parroting.
Summarising

Summaries are longer versions of a reflection. They cover several key points of a discussion. They are used in pre-conference meetings but especially in conferences.

Commonly, a summary covers key points and decisions that have been agreed to. For example -

So let’s clarify. You found that more items were missing after the police had left. The extra items are meat out of the freezer, the vacuum cleaner and your daughter’s skis. Is that right?

When to summarize

- When you want to make sure everyone has understood
- When you want to re-focus the discussion
- When you want to finish off a step in the process, summarize and then move to the next step
- If participants have agreed a solution or actions – summarize the agreed details.

Example

If you watch the first 7.5 minutes of this video clip you will hear the mediators summarising the opening views of each party.

https://www.youtube.com/watch?v=KS-ykB7nYiY

Here is what to do

Complete Practice 4, which requires you to write some reflections and a summary. If you are happy that you have met the standards for that, proceed to the next section of the module. If you need or want more practice you can complete Practice 5.
Practice 4: Reflecting and summarising

1. Read the statement below and then write a short reflection to show your understanding of what was said. The statement relates to discussion at a pre-conference with the offender in a Worksafe safety case.

*I do think that health and safety is important but there are limits. It is really expensive to make all the changes we have made and I know there is more we have to do. Suni knows not to put his hand in when the machine is running. I'm really disappointed with him because up until the accident I thought he was a really good employee. I don't know that we want him back after this. He had a good record for seven years but who is to say he won’t let us down again?*

Your reflection of your understanding

________________________________________________________________________

2. Read the next statement and then write a short reflection of the feeling. The statement relates to a pre-conference with a victim in a burglary case.

*It’s had a bit of an effect on all of us. The kids have been scared and we have had to reassure them that he will not get in again because we have put in extra locks and an alarm system. We have also got a dog now so that has been a positive for the kids. I guess I have got a bit obsessive about locking and I wake up in the night at the slightest noise.*

Your reflection of the feeling

________________________________________________________________________

3. Listen to the short video clip, ‘Giving victims a voice - restorative justice’ in the link below and then write a short summary of the key points.

https://www.youtube.com/watch?v=WrEApuJ-DTE
Practice 4 – Evaluation

Your wording will be different but must be a short statement

1. *I do think that health and safety is important but there are limits. It is really expensive to make all the changes we have made and I know there is more we have to do. Suni knows not to put his hand in when the machine is running. I'm really disappointed with him because up until the accident I thought he was a really good employee. I don't know that we want him back after this. He had a good record for seven years but who is to say he wont let us down again.*

Example reflection of **understanding**

So you are seeing this accident as being caused by Suni. Right?

2. *It's had a bit of an effect on all of us. The kids have been scared and we have had to reassure them that he will not get in again because we have put in extra locks and an alarm system. We have also got a dog now so that has been a positive for the kids. I guess I have got a bit obsessive about locking and I wake up in the night at the slightest noise.*

Example reflection of the **feeling**

Sounds like you are all feeling a bit anxious?

3. Example summary of key points in the video clip.

Restorative justice benefits both the victim and the offender. It allows the victim a voice and one interviewee said she came out no longer feeling a victim. It holds the offender to account and gives them the opportunity to take responsibility and make amends.

Restorative justice reduces the chance of reoffending and that benefits the whole community.

For restorative justice to work the offender must take responsibility, both victim and offender must be willing to participate and it must be safe.
Practice 5: Reflecting and summarising

1. Read the statement below and then write a short reflection to show your understanding of what was said. The statement relates to discussion at a pre-conference with the offender in a case of theft from a vehicle.

_I didn’t know him but we were both drunk that night and he told me to come and get some more booze. So we did and we were walking down Flitch Street when we saw this van with the back open. It was a tradies van for a plumber I think. Tony told me to climb in and just take stuff so I did and I handed it all out to him and didn’t really look at what I was taking. He stuffed it into his backpack. Then the van driver turned up and he just scarpered and I didn’t know what to do so I ran after him and then I thought “this is stupid”, so I turned around and walked back. He disappeared down Flitch Street and honestly, I have never seen him again and I never want to._

Your reflection of your understanding

2. Read the next statement and then write a short reflection of the feeling. The statement relates to a pre-conference with an offender in an assault case.

_No I haven’t told my parents because they wouldn’t understand. They think I’m going to get a good job and everything will be sweet. I’m really hoping my sister doesn’t find out because she will go and blab to them and they will be shattered._

Your reflection of the feeling

3. Listen to the mediation participant (Kirsty) in the link below and then write a short summary of her key points. You do not need to watch the entire video – only Kirsty’s opening.

https://www.youtube.com/watch?v=LO3OMVWN8lk
Practice 5 – Evaluation

Your wording will be different but must be a short statement.

1. I didn’t know him but we were both drunk that night and he told me to come and get some more booze. So we did and we were walking down Flitch Street when we saw this van with the back open. It was a tradies van for a plumber I think. Tony told me to climb in and just take stuff so I did and I handed it all out to him and didn’t really look at what I was taking. He stuffed it into his backpack. Then the van driver turned up and he just scarpered and I didn’t know what to do so I ran after him and then I thought, “This is stupid”, so I turned around and walked back. He disappeared down Flitch Street and honestly, I have never seen him again and I never want to.

Example reflection of understanding

So you did take the stuff from the van but you then realized you had done a stupid thing. Right?

2. No, I haven’t told my parents because they wouldn’t understand. They think I’m going to get a good job and everything will be sweet. I’m really hoping my sister doesn’t find out because she will go and blab to them and they will be shattered.

Example reflection of the feeling

Sounds like you are feeling pretty ashamed of what you did?

3. Example summary of key points in the video clip.

“So you are saying that Paul doesn’t listen to you or value your input. He tells you to email him. You are feeling that you are not respected and you don’t see a way through this.”
Answering participant questions

Introduction

From the first point of contact with a victim or offender, you will be inviting questions and are expected to give short, clear and understandable answers. In addition, you need to be able to adjust the language you use, depending on who you are talking to. In this section we will look at how to answer questions about restorative justice, so that your answers are clear and short and can be understood by the questioner.

Answers need to be clear and short

When answering questions from a restorative justice participant a key skill is being able to keep the answer clear and short. That means sorting all the information you have on the question topic so that you give only the information needed and leave out all the extra information that is a ‘nice to know’ for the participant. For example, if you were asked what diversion is, the key points to cover are that -

- It is managed by police
- It is usually for a first offence
- The police give tasks to be done by a cut-off date
- If the offender does everything by the date, the offender keeps a clear criminal record.

If you are keeping your answers clear and short the questioner will be interested in the answer and may follow-up with another question. If your answers are long and give too much information the questioner may lose interest and avoid further questions.

If you are unhappy with an answer you have given, note it and come up with a clearer answer for next time. You will improve with ongoing practice.
Adjusting your language

In restorative justice work you deal with a wide range of people –
- Those with a limited vocabulary
- Professional people
- People with English as a second language.

The words you use when explaining restorative justice to a young person with a poor vocabulary might be different to the words you use when explaining it to a counsellor or lawyer.

Using simple words with a person who has English as a second language or a person with a limited vocabulary can help them to understand and to engage in the restorative justice process.

On the other hand, using simple words with a well-educated person can be interpreted as “talking down” and can annoy or alienate them.

For this reason we all adjust our language to suit the person we are talking to. For example, a person with limited vocabulary may not understand:

- Conference: try ‘meeting’
- Amends: try ‘make up for’
- Reparation: try ‘pay money’
- Opportunity: try ‘chance’
- Environment: try ‘meeting place’
- Voluntary: try ‘your choice’

Example

_Under the Sentencing Act, the judge is required to take the restorative justice report into account. The report is one determinant of the sentence along with many other determinants such as previous offending, early guilty plea and so on._

Simplified version

_The judge has to read the report and it will help him or her decide what the sentence will be. There are lots of other things the judge looks at too – like whether the offender has done other crimes before._
Give factually correct answers

In Module 5, “The New Zealand criminal justice system and restorative justice”, you learned many of the answers to give and you learned to never give an opinion on what a sentence might be, what changes there could be to charges, nor to give any advice about appearing in court. All answers need to be factually correct and if you don’t know the answer to a question it is fine to say, “I don’t know, sorry”.

To recap, some example answers follow.

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>If I do that work for my diversion by the due date will I still have to go back to court on the 20th?</td>
<td>That is something you will need to check with the police.</td>
</tr>
<tr>
<td>Could I get a suspended sentence for that?</td>
<td>I can’t give legal opinions. You will need to ask your lawyer or if you don’t have one, you can ask a duty lawyer at your next appearance.</td>
</tr>
<tr>
<td>Is he genuine do you think?</td>
<td>That is a judgement you will need to make if you meet him.</td>
</tr>
<tr>
<td>If we go to conference and we agree stuff does that mean she will get off more lightly?</td>
<td>Sentencing is entirely up to the judge. The restorative justice report is taken into account in sentencing but it is only one of many things the judge takes into account.</td>
</tr>
<tr>
<td>What sentence is he likely to get?</td>
<td>That is totally up to the judge on the day. The only information I have is that the maximum sentence for that crime is ….. (from the Police Summary of Facts).</td>
</tr>
<tr>
<td>Is this all about her wanting to get money out of me?</td>
<td>What she asks for is up to her and that might include money. It won’t become an agreement unless you both agree.</td>
</tr>
</tbody>
</table>
**Keeping information private**

When answering participant questions either at pre-conference or over the phone, the information you need to keep private includes:

1. Contact details of the other party
2. Whether there has been previous offending
3. What outcomes the victim might ask for at conference
4. What outcomes the offender might offer at conference
5. Anything the other party said at pre-conference
6. Who the other party is bringing as support.

Let's now look at example answers for each of the confidential items of information.

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Where is he living now?</td>
<td>That information is private but that is something you could ask him at conference.</td>
</tr>
<tr>
<td>2. Has she done this sort of thing before?</td>
<td>I am not able to say but you could ask her yourself if we go to conference.</td>
</tr>
<tr>
<td>3. What does he want?</td>
<td>I can’t say and that is up to you to discuss at conference.</td>
</tr>
<tr>
<td>4. What did she say she would do to make amends?</td>
<td>That is up to you to discuss with her at conference.</td>
</tr>
<tr>
<td>5. Did he say he was sorry?</td>
<td>All I can say is that he would like to meet with you. How important is it for you to get an apology from him?</td>
</tr>
<tr>
<td>6. Who is she bringing as support?</td>
<td>I can’t disclose that at this time. What concerns do you have about who she might bring?</td>
</tr>
</tbody>
</table>
Practice 6: Answering questions

For each of the questions below, write an answer, ensuring that each answer -
- Is clear and short
- Uses words that would likely be understood by the questioner
- Sticks to facts
- Does not disclose confidential information.

Scenario 1

Questioner
You are at pre-conference with a young offender. The offender is a 17-year-old with little education. She has been granted diversion for a shoplifting offence.

Question
What’s diversion?

Your answer

Scenario 2

Questioner
You are on the phone arranging a pre-conference with a young offender.

Question
I’ll be OK on my own. Why do I need to bring support?

Your answer
Scenario 3

**Questioner**
The victim of a theft is a business woman who runs her own business. You are at pre-conference with her.

**Question**
Has he offended before?

**Your answer**

Scenario 4

**Questioner**
You are at pre-conference with a victim. His support person, who is a recent immigrant with limited English, asks -

**Question**
What is reparation?

**Your answer**

Scenario 5

**Questioner**
You are at pre-conference with the victim of a theft. The victim is an elderly woman with a low level of education and no knowledge of the justice system. She has decided she does not want to go to restorative justice and you have explained that she can write a victim impact statement if she wishes.

**Question**
What's a victim impact statement?

**Your answer**
Practice 6: Question answers

Example answers are given but yours will be OK if each answer-
- is clear and short
- uses words that would likely be understood by the
  questioner
- sticks to facts
- does not disclose confidential information.

In writing your answers you might like to refer back to the
glossary in module 5 for a recap of any technical words.

Scenario 1

Questioner
You are at pre-conference with a young offender. The offender is
a 17-year-old with little education. She has been granted
diversion for a shoplifting offence.

Question
What’s diversion?

Your answer
*Diversion is given by police, usually only for a first offence. They
will ask you to do things like write an apology letter and do some
community work. If you do it, you don’t get sentenced or have
any criminal record.*

Scenario 2

Questioner
You are on the phone arranging a pre-conference with a young
offender.

Question
I’ll be OK on my own. Why do I need to bring support?

Your answer
*There are lots of benefits in involving your whānau. For a start it
shows you are taking the offence seriously. Secondly, they can
give you ideas. Thirdly it’s good to have someone you can talk to
after the meetings because the meetings are private so you can
only talk about them with your whānau who were at the
meetings.*
Scenario 3

**Questioner**
The victim of a theft is a business woman who runs her own business. You are at pre-conference with her.

**Question**
Has he offended before?

**Your answer**
*I can't say but that is something you could ask him if we go to conference.*

Scenario 4

**Questioner**
You are at pre-conference with a victim. His support person, who is a recent immigrant with limited English, asks -

**Question**
What is reparation?

**Your answer**
*It is money paid to the victim by the offender.*

Scenario 5

**Questioner**
You are at pre-conference with the victim of a theft. The victim is an elderly woman with a low level of education and no knowledge of the justice system. She has decided she does not want to go to restorative justice and you have explained that she can write a victim impact statement if she wishes.

**Question**
What's a victim impact statement?

**Your answer**
*It is a form that you fill in. You write down how you have been affected by this crime and what it has cost you. The judge will get a copy of it. The police help you with the form so you will need to contact them.*
Answering “What is restorative justice?”

One of the questions you are often asked is, “What is restorative justice?” Being able to give a short and clear answer to this question is a real skill. To be able to answer in a professional manner, we suggest that you:

1. Prepare a written answer to the question that is clear and short and an answer that is in your own words.

2. Learn the answer off by heart.

Your answer needs to cover at minimum the following:
One example of an answer to a victim’s question, “What is restorative justice” is as follows -

Restorative justice is a service that is separate from the court and the police. It is an opportunity for you and the offender to get together in a neutral, safe environment to discuss what happened, the effects of this crime and to agree what might be done to make up for some of the harm caused. It enables you to ask the offender questions and gives you a say in what the offender might do. It is completely voluntary so the meeting only goes ahead if all parties want to participate. If the meeting does go ahead a report is written by us and that goes to the judge and the judge takes it into account when sentencing.

Note that this explanation covers the fact that restorative justice is separate from the court system, it is voluntary, and it covers the benefits. You learned about the benefits of restorative justice in Module 1 so refer back to that module if you would like a reminder.

Note that when talking to an offender the benefits would be different. For example -

Restorative justice is a service that is separate from the court and the police. It is an opportunity for you and the victim to get together in a neutral, safe environment to discuss what happened, the effects of the crime and to agree what might be done to make up for some of the harm caused. It enables you to talk to the victim face-to-face and explain what you did and why, how you feel about it now and to say what you are prepared to do to start putting it right. It is completely voluntary so the meeting only goes ahead if all parties want to participate. If the meeting does go ahead, a report is written by us and that goes to the judge and the judge takes it into account when sentencing.

These are only two examples and we will look at a lot more before you decide on your own answers. Both these examples are relatively short. They could be given in under a minute and that is a good guide for time – less than a minute.
Adjusting your language

Taking our explanation for an offender who has a limited vocabulary and simplifying the words might end up as –

*Restorative justice is not run by the court or by the police. It is separate. It’s a chance for you to meet face to face with the person you harmed. You can talk about what happened, why it happened and what you might do to make up for some of the harm. It is your choice whether you want to do restorative justice. You don’t have to do it but it can be a chance for you to front up for what you did. If we go ahead and have a meeting, then there will be a report that we write and that report will go to the judge and he or she will read it and take note of it when sentencing you.*

Avoiding suggestions

A common error that can be made is to suggest to an offender that a benefit of restorative justice for them is that they will have a chance to apologize, or to suggest to the victim that it is an opportunity for them to forgive the offender. Any suggestions or leading statements need to be avoided. For example to an offender you might say -

*It is an opportunity for you to tell the victim how you feel now about what you did.*

More Example Answers

Before you decide on your own answers to the question, read through the following examples. Note the phrases you would be comfortable to use.
Example 1: Explanation to a third party, such as a support person

Restorative justice is separate from the police and court. It’s a meeting where the offender and victim get to talk directly to one another. It can be a turning point for the offender to hear about how the crime has affected the victim and it does have a positive impact on the reoffending rate. It can also be beneficial for the victim to be able to have input into the court process.

Restorative justice is completely voluntary and for the meeting to happen we need a yes from both victim and offender and also we have to be happy that it is going to be safe to bring them together. If the meeting is held, we write a report about what was said and what was agreed. That report goes to the judge and it’s taken into account for sentencing.

Example 2: Explanation for a victim

(Name) has already admitted guilt to the charge of (Charge) and the case has been referred to restorative justice by the judge. Restorative justice is separate from the court and police where you have the opportunity to meet directly with (Name) to tell him about the crime from your point of view and how it has affected you and your family. You can also agree with him what he could do to make up for some of the harm he has caused.

It is completely voluntary whether you participate or not. To be able to go ahead we need three ‘yesses’ – one from him, one from you and then both my colleague here and I have to feel comfortable too.

If we do go ahead, then a meeting will be held in a neutral place such as a room at the library. Our role will be to help you to talk directly to one another. Our other role will be to take notes because out of this meeting we have to write a report and that report goes to the judge and the judge will take it into account when sentencing (Name).

Example 3 Explanation for an offender

Restorative justice is a chance for you to meet the victim in this and talk to him face to face. It gives you a chance to tell him why you did it and also a chance to agree what you could do to make up for some of the harm caused. You don’t have to go to restorative justice – it is your choice. It is also a choice for the victim and it is a choice for us. We have to be sure that going ahead is going to be worthwhile for both of you.
If we do go ahead with a meeting there will be a report that we write about the meeting and what was agreed. That report goes to the judge and she or he will take it into account when deciding on your sentence.

Here is what to do

Prepare and write down your own answer to the question “What is restorative justice?”

Learn it off by heart. Reading it over the phone or in a meeting would not seem professional.

Practice giving your answer – in front of the mirror or to family or friends.

Practice adjusting your answer for an offender or a victim.

Practice adjusting your answer for a person with limited vocabulary.

When you are confident you can give the answer straight off, without having to refer to notes, then you are ready for the assessment.
Assessment: Communication skills for restorative justice

Time to assess your competence.

This assessment is done in an informal phone discussion. When you are ready for the assessment make a time with Anne –

By email anne@pact.co.nz
Or phone 027 447 5115

The phone call will involve an informal introduction and general chat to start and then there are two parts to the assessment.

In the first part, you will be interviewing Anne and will be assessed against the standards for questioning and listening (in the evaluation that follows), with the main emphasis on OPEN questions. You can choose to interview Anne about:

- A possible crime she has committed, or
- A possible crime she has been a victim of, or
- Her sport, family, special interest.

Note that you will be able to practice with Anne first if you wish, and are not expected to go straight into the assessment.

In the second part of the assessment, Anne will ask you some questions about restorative justice and you will answer the questions. You are expected to give answers “off the cuff” (not by reading) and will be assessed against the standards in the evaluation that follows. The questions asked will include, “What is restorative justice?” as well as any of the questions you practiced in Practice 6.

The assessment for this module takes 30 – 60 minutes.
# Evaluation: Communication skills for restorative justice

<table>
<thead>
<tr>
<th>Standards for questioning and listening</th>
<th>Met? ✓ or ✗</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 75% (3 out of 4) questions are open, relevant, and do not lead</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reflection is used to reflect both facts and feelings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Key points are summarized</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standards for answering questions</th>
<th>Met? ✓ or ✗</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answers are clear and short</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Language used matches the recipient’s vocabulary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information is factual</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No private information is disclosed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Explanations of restorative justice include relevant benefits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Suggestions are avoided</td>
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<td></td>
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</table>