



# Best Practice Standards

*for*

## **Restorative Justice Facilitators**

Wednesday, 14 October 2009

**Victorian Association for Restorative Justice**

Version 1.8, 2009

Published by

**Victorian Association for Restorative Justice, Inc**

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Published 2009

***Best Practice Standards for Restorative Justice Facilitators***

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ISBN 978-0-9806564-0-4

Printed and bound in Australia by

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# Contents

<i>Foreword</i> .....	4
<b>Introduction</b> .....	<b>7</b>
<b>Use of Terms</b> .....	<b>9</b>
<b>Section 1. Quality Assurance Framework for Restorative Justice</b> .....	<b>11</b>
<b>A. Training</b> .....	11
<b>B. Support Structure</b> .....	18
<b>Section 2. Facilitating a Restorative Justice process</b> .....	<b>23</b>
<b>A. Commitment</b> .....	23
<b>B. Preparation</b> .....	26
<b>C. Communication</b> .....	30
<b>D. Action</b> .....	37

## Foreword

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The question of regulation in relation to conference convenors is complex.<sup>1</sup> At present it seems there is no systematic accreditation of restorative justice practitioners within Australia.<sup>2</sup> The Law Reform Committee of the Victorian Parliament (LRC), as part of an inquiry into alternative dispute resolution and restorative justice, recently recommended:

**Recommendation 64: Identification of core skills and attributes of restorative justice practitioners**

The Victorian Government, in consultation with practitioners and the Victorian Association of Restorative Justice, should develop a list of core skills and attributes required by restorative justice practitioners.<sup>3</sup>

VARJ began developing draft standards and an accreditation protocol before the Law Reform Committee began its inquiry. However, we were encouraged by the recommendations of the LRC, and by enthusiastic responses, from VARJ members and agencies providing restorative justice processes, during a consultation process begun in early 2009. The result is the accompanying *Best Practice Standards* and related *Accreditation Scheme*.

Developing such complex documents is challenging and not without controversy. However, VARJ firmly believes that the development of these standards echoes the benefits identified by the National Alternative Dispute Resolution Advisory Committee (NADRAC) in relation to regulating mediation practice<sup>4</sup>. These include to:

- maintain and improve the quality and status of restorative justice practice;
- protect consumers;
- facilitate consumer education about restorative justice practice;
- build consumer confidence in restorative justice practice services;
- improve the credibility of restorative justice practice;
- build the capacity and coherence of the restorative justice practice field; and
- promote Victoria, and Australia's, profile in the restorative practice field.

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<sup>1</sup> See Condliffe, P., and Douglas, K., "Reflections On Conferencing Practice: The Need for Accreditation and the Dangerous Debate," (2007) *ADRJ*, 140.

<sup>2</sup> For a general discussion of these issues see Condliffe and Douglas, n.15.

<sup>3</sup> Law Reform Committee, *Inquiry into Alternative Dispute Resolution and Restorative Justice*, Law Reform Committee, Parliamentary Paper No. 184, May 2009 at p. 307.

<sup>4</sup> National Alternative Dispute Resolution Advisory Council, *Legislating for Alternative Dispute Resolution: A Guide for Government Policy-Makers and Legal Drafters* (Canberra, November 2006): p. 57.

The consultation process conducted by VARJ has revealed strong support for the development of standards and accreditation procedures in the evolving field of restorative justice. Indeed the United Nations has already moved towards the establishment of a set of principles for restorative justice in criminal matters.<sup>5</sup> Clause 12(c) of its *Basic Principles on the Use of Restorative Justice Programs in Criminal Matters* provides that member states should, inter alia, consider establishing guidelines for the qualifications, training and assessment of facilitators of restorative justice processes.

Drafting these standards and an accreditation scheme involves balancing sometimes competing considerations. For example, people must not be stigmatized by the process and the needs offenders, victims and of affected communities must all be also addressed. Standards must be supported by appropriate accountability in what are often relatively closed processes. In a field that is becoming increasingly professionalised, standards should be relatively informal and non-bureaucratic but clear in their intent and reporting arrangements.<sup>6</sup>

Across the range of programs in Australia that identify as 'restorative', one is struck by the dissimilarities between the various systemic and organizational contexts but also by their general reliance on the conferencing process. The focus of these standards reflects this reliance. Interestingly, the United Kingdom's Training and Accreditation Group's advice to its government concluded that core skills across the various contexts of conferencing practice in that country were the same.<sup>7</sup> The report lists a set of key knowledge and skills. It outlines six separate areas of competencies that should be considered in the training and accreditation of restorative practitioners. These are: core restorative practice; sensitive and complex cases; family group conferencing and processes involving welfare planning; co-working; case supervisors; and line managers.<sup>8</sup>

The extent and practice of restorative justice practices in the UK is more extensive than in this country. Moreover, the UK has the advantage of a relatively unitary system of justice administration, unlike Australia, with its kaleidoscope of State jurisdictions and their jigsaw of programs. However, in this Australian first for the development of *Best Practice Standards*, and perhaps a world first for the development of an *Accreditation Scheme*, we hope this precedent can be considered by other Australian jurisdictions just as we have drawn heavily on the UK experience.

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<sup>5</sup> Basic Principles were endorsed by the Economic and Social Council in 2002. More recently, the declaration of the Eleventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 2005 urged the further development of restorative justice policies, procedures and programs, see United Nations Office on Drugs and Crime n 1 p. 2.

<sup>6</sup> Nadeau J, *Critical Analysis of the United Nations Declaration of Basic Principles on the Use of Restorative Justice Programs in Criminal Matters* (2004) <<http://www.restorativejustice.org/resources/docs/nadeau>> viewed 24 April 2007.

<sup>7</sup> UK Home Office, *Best Practice Guidance for Restorative Practitioners and their Case Supervisors and Line Manager*, (Dec. 2004 ): p. 5.

<sup>8</sup> UK Home Office, n.42, p. 15 ff.

To the Committee and members of VARJ many thanks for your pioneering work. Thanks also to all those restorative justice practitioners, agencies and stakeholders who contributed throughout the consultation. Special thanks to our excellent consultant/researcher and writer Dr. Derek Brookes and our working Standards Sub-Committee consisting of Marg Armstrong, David Moore, Derek Brookes and myself.

We hope you find these *Best Practice Standards* and *Accreditation Scheme* useful and that your practice is restorative in every sense of the word.

**Peter Condliffe**

**President**

**Melbourne**

**September 2009**

#### **About VARJ**

The Victorian Association for Restorative Justice (VARJ) is an incorporated inter-disciplinary association of restorative practitioners, policy makers and academics from throughout Victoria.

VARJ aims to:

- promote and advocate for the use of restorative practices in schools, the community, prisons, the criminal justice system, the workplace and any other situation where conflict arises;
- disseminate information about, and act as a resource for, restorative practices;
- develop and promote agreed standards and principles for evaluating and guiding restorative practice; and
- encourage, and to undertake, research on restorative practice.

## Introduction

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### Origin

These Best Practice Standards are largely derived from a document that was developed by a UK Home Office advisory group. The group consisted of experts and practitioners from across the restorative justice (RJ) sector and criminal justice agencies.<sup>9</sup>

### Purpose

The present version has been adapted for use in Victoria. It has been produced to meet the following range of objectives:

- To provide *participants* with a detailed explanation of the kind of service they should expect from RJ Facilitators and services;
- To enable and encourage *RJ Facilitators* to reflect on how they can sustain or improve the quality of their work;
- To provide *Line Managers and Case Supervisors* with a resource that will enable them to reflect on how they can better support and monitor best practice;
- To enable *organisations delivering restorative justice* with a set of standards by which they can monitor and assess the quality of their service-provision;
- To provide *funders* with criteria by which they can evaluate existing services or proposals to implement new services;
- To give *trainers* a recognised benchmark for best practice and a resource to enable them to develop courses and procedures manuals;
- To give *trainees* a transparent and objective means of assessing the quality of the trainer and the course content;
- To enable *institutions providing qualifications or an accreditation scheme* in RJ with a resource that will enable them to design curricula content and structure;
- To enable *researchers* to design monitoring and evaluation tools that take into account the extent to which RJ Facilitators are operating in accordance with best practice standards.

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<sup>9</sup> "Best Practice Guidance for Restorative Practitioners and their Case Supervisors and Line Managers" (December 2004) [http://www.restorativejusticescotland.org.uk/rj\\_bestpractice.pdf](http://www.restorativejusticescotland.org.uk/rj_bestpractice.pdf). The present version has also drawn upon the 2008 Scottish adaptation of the original UK Guidance: <http://www.scotland.gov.uk/Resource/Doc/226996/0061358.pdf>.

## ***Application***

Restorative justice is perhaps best known in Victoria as an approach that can be used in the context of youth justice and schools. But RJ can be applied in almost any situation where personal harm has occurred, including families, schools, anti-social behaviour, youth justice, residential care, criminal justice, prisons, workplaces, and so on. For this reason, these Best Practice Standards are designed to be generic, in the sense that they can be used in almost any context.

## ***Summary***

This document is prefaced by explaining the terms that will be used in the document. These definitions are widely accepted by Facilitators and service-providers across Victoria.

The first section then presents the best practice standards that apply to a quality assurance framework for RJ Facilitators. This framework consists of two core elements: (A) *Training* and (B) a *Support Structure* that includes Case Supervision, Line Management and Co-facilitation.

The second section presents the standards that apply to the facilitation of the four stages of any RJ process: (A) *Commitment*, (B) *Preparation*, (C) *Communication* and (D) *Action*.

## Use of Terms

### Restorative Justice

Restorative Justice *seeks primarily to address or repair the harm caused by an incident or offence*. This is generally done by providing a 'safe place' in which all those involved have an opportunity to discuss the following three topics, with the assistance of trained Facilitators:

- (1) What happened;
- (2) How people were harmed or otherwise affected; and
- (3) What needs to happen
  - to repair or make amends for the harm,
  - to make sure it does not happen again, and
  - to bring about positive changes for all those concerned.

### Participants

A range of participants can be involved in this kind of dialogue, depending on their needs, wishes, risks and availability. These include:

- **Person Harmed** (or someone who can represent them, or who has been harmed by the same type of offence or incident);
  - **Person Responsible** (or someone who has committed the same type of offence or incident);
  - **Support Person:** someone invited by the person harmed and person responsible to support them in the process (e.g. a parent, carer, sibling, extended family, partner, friend, or professional working with them);
  - **Invited Person:** someone who represents the views or interests of an agency or profession, the community or themselves (e.g. police, legal representative, elder, magistrate, etc.).
- 
- **Observer:** anyone who attends a RJ process without participating, and whose presence is accepted by all the participants.

## Service-Delivery Roles

- **RJ Facilitator** or **Co-facilitator**: someone who is trained and fully competent to facilitate at least one RJ process that involves direct communication between the person(s) harmed and the person(s) responsible, and who may also be trained and fully competent to facilitate RJ processes that involve indirect or no communication (see below).
- **Case Supervisor**: someone who is able to provide advice and oversight in individual cases, bring new ideas and a fresh perspective, and check that nothing is going seriously wrong. They must be a fully competent RJ Facilitator.
- **Line Manager**: someone who can ensure that the RJ Facilitator has the support and resources to work effectively, but without getting involved in how individual cases are worked. They do not need to be a RJ Facilitator.

## RJ processes

### Direct Communication

- **RJ Conferences** or **Group Conferences** are meetings attended by the person(s) harmed, the person(s) responsible, support persons and, where appropriate, invited persons.<sup>10</sup>
- **Face-to-Face Meetings** are attended only by the person(s) harmed and the person(s) responsible. They are used where support persons and invited persons would be unnecessary or unhelpful.

### Indirect Communication

- **Shuttle Dialogue** involves the Facilitator acting as a 'go-between' to enable the person(s) harmed and the person(s) responsible to have a constructive dialogue. It is used where they cannot or do not wish to meet each other.

### No Communication

- **Support for Persons Harmed** involves only the person(s) harmed meeting with the Facilitator. It aims to help them talk about their experience, discuss strategies for recovery and gain access to other support services. The process is used in an RJ context only if no person(s) responsible have been identified, or the person(s) harmed do not want to communicate with them.
- **Victim Awareness** involves only the person(s) responsible meeting with the Facilitator. It aims to enable them to understand the impact of their actions, and take responsibility in whatever way possible, including reparative tasks. It is used in an RJ context only where the person(s) harmed cannot be contacted or do not want to communicate with the person(s) responsible. A '**Restorative Conversation**' is a short version of this process.

<sup>10</sup> In some cases, the person(s) harmed may accept that they were partly responsible; and the person(s) responsible may wish to talk about how they were also partly harmed. RJ processes should incorporate these complexities, so long as all involved agree to do so.

## 1 | Quality Assurance Framework for Restorative Justice

*Before any individual is assigned or agrees to facilitate a RJ process, assurance must be given that they have (A) received the kind of training that will equip them with the knowledge and skills required to facilitate a process effectively. They should also have (B) a support structure, consisting of person(s) who can perform the roles of case supervision, line management and co-facilitation.<sup>11</sup> These two elements are essential to providing a quality assurance framework for the facilitation of RJ processes. Work on any case should not commence unless they are fully in place, in accordance with the standards presented below.*

### A. TRAINING

#### Course Logistics

**A1. To demonstrate that you have been trained to facilitate a RJ process, you need to provide evidence that you have successfully completed a training course in RJ processes, that is, where this course . . .**

- 1.1 is held over a minimum of 3-5 days (or 24-40 hrs), the length of time depending on the range of RJ processes covered and the level of pre-existing skills, experience and knowledge of trainees;
- 1.2 involves a trainee group size that allows for sufficient input by and for each trainee, the recommended maximum size being 20 and the minimum 4;
- 1.3 is supported by the assistance of a co-trainer if there are more than 12 trainees, depending on the experience and expertise of the lead trainer;
- 1.4 is facilitated by a trainer that has (or co-trainers that between them have):
  - practice experience of facilitating a minimum of 10 cases involving a mixture of *all* those RJ processes that will be undertaken by the trainees;
  - a working knowledge of the best practice standards for RJ Facilitators as presented in this document;
  - demonstrated an ability to deliver training in accordance with these standards, as evidenced by trainee evaluations and peer-review processes;

<sup>11</sup> These three roles may be provided by one or two individuals. However, where the Facilitator's Line Manager does not provide case-supervision, then a key part of their management role is to ensure case supervision is available from someone else. Likewise, where the case-supervisor is not the Co-facilitator, then part of their role is to ensure that a Co-facilitator is available. In either case, this could involve arranging supervision or co-facilitation to be carried out by a RJ Facilitator from another organisation. Private or sole practitioners should (e.g. through peer support) endeavour to create a support structure as set out here, insofar as that is practicable and expected by the agency or institution that has employed their services.

- 1.5 enables trainees to acquire the knowledge and skills relevant to the type of cases that the Facilitator is expected to work on<sup>12</sup>, which includes the trainer(s):
- using a combination of theoretical and experiential learning techniques;
  - providing all trainees with written theoretical, procedural and practice-based materials;
  - giving examples showing the reality of RJ processes, for example, descriptions of actual cases and video coverage of an actual RJ meeting and/or post-meeting reflections by participants;
  - providing constructive feedback to individual trainees, which includes identifying any concerns and recommending further training if needed;
  - ensuring that those who complete the course can initially shadow and then be shadowed by either the trainer or an experienced RJ Facilitator for as long as both feel is necessary;
  - making themselves available to trainees for on-going advice and consultation, where possible and appropriate.
- 1.6 allows trainees to provide an anonymous evaluation of the training event, which can then be:
- taken into account by the co-trainers as they reflect on and debrief with each other following the event, so as to improve future events; and
  - made available to potential trainees or organizations wishing to assess the quality or approach of the trainer, prior to arranging a training event.

### ***Knowledge Base***

#### **A2. To demonstrate that you have the knowledge required to facilitate a RJ process effectively, you need to be able to . . .**

- 2.1 offer a definition of RJ, including reference to:
- persons harmed, persons responsible, and communities;
  - RJ as a process;
  - the aims of RJ, and potential outcomes;
- 2.2 articulate how restorative justice differs from other approaches, including:
- other disciplines, such as advocacy and counselling;
  - mediation and conflict resolution, that is, what difference it makes where a core aim of the process is to enable someone to take responsibility and make amends for a particular incident that has caused harm;

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<sup>12</sup> For the kind of knowledge and skills required, see A2-A3 for standard cases and A4-A5 for sensitive and complex cases.

- how as an approach to unacceptable behaviour it differs from other approaches, such as retributive and welfare-based approaches, mainstream criminal and youth justice responses;
  - how, and in what ways, RJ aims to meet the needs of both persons harmed *and* persons responsible;
- 2.3 explain why and what it means to say that 'RJ works', with reference to a theoretical and evidence base;
- 2.4 demonstrate an understanding of the principles and values of RJ, and the implications of these principles for your own practice;
- 2.5 articulate the nature and impact of being harmed and the needs that may arise, including:
- the short-and long-term physiological, psychological and social impact for the person directly harmed and those close to them;
  - the factors which affect how individuals react to and recover from their experience, including previous harm done to them and the reactions of family and friends;
  - their need for safety, respect, recognition, choice, information, confidentiality, and an opportunity to have the harm addressed, materially and/or symbolically;
  - the services that may offer additional support during or as an alternative to a RJ process, and how to assist them in accessing these;
- 2.6 articulate the underlying causes of behaviour that harms or affects others, the impact of being responsible for causing harm to others, and the needs that may arise, including:
- the short-and long-term impact of the incident for the person responsible, including the reactions of people around them, including police, family, and friends;
  - the factors which affect how people respond to their behaviour, such as previous harm done to them and family or peer-group attitudes;
  - their need for safety, respect, choice, information, confidentiality, an opportunity to learn from their experience and to address the material and/or symbolic harm they have caused;
  - the approaches or services that may help to address the underlying causes of their behaviour, and how to assist them in accessing these;
- 2.7 develop an empathetic understanding of the experiences of all those who might participate in a RJ process;
- 2.8 describe the different types of RJ processes available, explaining their distinctive procedures, respective benefits and limitations, and the situations in which each process would be applicable;

- 2.9 demonstrate an understanding of the various different institutional and statutory contexts in which RJ could be applied;
- 2.10 demonstrate an understanding of the criminal and youth justice contexts and the statutory or policy framework in which you are using a RJ process (if applicable), including:
  - agreed referral protocols and criteria;
  - alternatives that may be available to individuals should they decide not to participate in a RJ process;
- 2.11 demonstrate a commitment to working in partnership with both statutory and voluntary sectors, including, for example, criminal and youth justice contexts, social work, schools, the police, and voluntary agencies that work with children, young people and families;
- 2.12 identify methods of ensuring that RJ processes can be delivered in a way that is appropriate to the cultural identity and expectations of participants;
- 2.13 identify relevant methods for assessing and managing risk;
- 2.14 describe methods of encouraging the effective and active involvement of participants in RJ processes;
- 2.15 articulate the ground rules for behaviour and communication during RJ processes, including what they are, their purpose and why it is important to reinforce them and what to do if they are breached;
- 2.16 identify facilitation methods or strategies that will ensure the safety of those participating in RJ processes, including:
  - how to identify and overcome possible power imbalances that individuals might perceive;
  - how to identify signs that indicate harm or potential harm to individuals' emotional and physical well-being and the steps that should be taken;
  - how to balance the needs of each of the individuals within the process;
  - how to know when to make interventions to move the process along, and when to leave individuals to resolve issues for themselves;
- 2.17 explain why the supervision and monitoring of agreements and following-up with each individual involved after a RJ process can be important to their recovery process.

### ***Skills Base***

#### **A3. To demonstrate that you have the skills required to facilitate a RJ process effectively, you need to be able to . . .**

- 3.1 demonstrate effective communication skills, which includes the ability to:
  - actively listen;

- form questions that will achieve better understanding;
  - be aware of and read non-verbal signals;
  - summarise and reflect back;
  - use telephone communication skills;
  - give and receive feedback;
  - challenge constructively and positively;
  - enable participants to make their own choices;
- 3.2 create a 'safe place' for participants, which includes the ability to:
- build trust with all participants;
  - show sensitivity to diversity and difference;
  - ensure that participants have access to 'culturally safe' RJ processes;
  - manage conflict and aggression;
  - assess imbalances of power, and act to redress imbalances;
  - be and remain impartial and demonstrate this to all participants through words and actions;
  - be aware of how the physical environment can affect the sense of safety, comfort and security felt by participants;
- 3.3 treat people fairly, without discrimination on the basis of gender, age, ethnicity, ability/disability, sexuality, culture, faith or history of causing or experiencing harm;
- 3.4 show respect for all participants, including their opinions and views;
- 3.5 record decisions and outcomes accurately, following your agency's guidelines (if any);
- 3.6 manage your work, which includes the ability to:
- plan your work;
  - show you are following a clear process with a particular case;
  - problem-solve and handle complexity;
- 3.7 maintain confidentiality, subject to the requirements of the law;
- 3.8 demonstrate self-awareness, which includes the ability to:
- be aware of your own prejudices and set them aside;
  - assess boundaries of your own knowledge, experience and confidence in handling each specific case;
  - recognise when to seek help where necessary;
- 3.9 demonstrate an ability to work productively with others, including the ability to:

- work as a Co-facilitator when appropriate;
  - work as a team member with colleagues in your agency;
- 3.10 demonstrate an ability to facilitate, in accordance with the relevant procedures and these best practice standards, the full range of RJ processes that you are expected to deliver, which may include: Conferencing, Face-to-Face Meetings, Shuttle Dialogue, Support for Persons Harmed, and Victim Awareness/ Restorative Conversations.

*The sub-sections below set out the additional (A4) knowledge and (A5) skills that are needed to handle more sensitive and complex cases. These are cases in which risk assessment gives good reason to believe that (a) there is someone who has the motivation and ability to cause significant further harm, including emotional trauma, either during or outside the RJ process; and/or (b) there is someone who is particularly vulnerable to further harm, including vulnerability arising from the original incident. The knowledge and skills required for this kind of case are largely the same as those set out in A2-A3 above, but are at a higher level.*

*It should be noted that, for cases within this category, RJ Facilitators will need to have both (a) undertaken advanced specialist training in and (b) be able to operate in accordance with context-specific procedures and best practice standards.<sup>13</sup>*

### **Advanced Knowledge**

#### **A4. To demonstrate that you have the knowledge required to facilitate a complex and sensitive case effectively, you need to be able to . . .**

- 4.1 articulate how participants, or others, can cause harm either during or outside the RJ process, for example through:
- references to sensitive aspects of the offence;
  - lack of acknowledgement or minimisation of the impact on the person harmed;
  - blaming the person harmed;
  - intimidation;
- 4.2 explain how participants can manipulate others to prevent them stating their needs and views, and how this can manifest itself in a RJ process;
- 4.3 convey how a pre-existing or ongoing relationship between participants can affect a RJ process, either increasing its benefits or providing opportunities for further harm to be caused;
- 4.4 explain how different kinds of offences can contain the elements in 4.1-3 above;

<sup>13</sup> Where (a)-(b) are not available, RJ Facilitators will need to have significant (a) experience and expertise as RJ Facilitators, (b) theoretical and empirical understanding of the field in which RJ is being applied, and (c) collegial support and case supervision.

- 4.5 describe possible attitudes to sensitive and complex cases in the participants' communities, and explain how this may affect them and influence how they participate in the RJ process, especially if the case is widely known;
- 4.6 describe the long-term effects of sensitive and complex cases, and the implications for the length and timing of the RJ process, and for maintaining continuity of case handling;
- 4.7 explain the sources of vulnerability arising from the effects of sensitive and complex cases on those involved, the offending behaviour and relationships underlying these cases, and the implications for how to work with participants in a RJ process;
- 4.8 describe the legal measures and policies relating to such cases, for example on:
  - child protection and domestic violence legislation and regulations;
  - civil and criminal court measures of protection;
  - parole legislation;
  - inter-agency risk management arrangements;
  - information sharing and the limits of confidentiality;
  - legislation relating to Indigenous Australians;
- 4.9 list the range of specialist services and agencies available for those involved in sensitive and complex cases.

### ***Advanced Skills***

#### **A5. To demonstrate that you have the skills required to facilitate a complex and sensitive case effectively, you need to be able to . . .**

- 5.1 apply a more thorough initial and ongoing risk assessment than would be required for less complex cases, which would include:
  - a formal written risk assessment;
  - ensuring that any relevant specialist risk assessment tool is applied;
- 5.2 select appropriate measures to manage the higher level of risk in such cases, for example:
  - co-facilitating with a more experienced RJ Facilitator and/or one who has specialist knowledge in the relevant area;
  - close multi-agency working;
  - close contact with a Case Supervisor;
- 5.3 discern whether the nature of the offence requires contacting or meeting with the person harmed prior to approaching the person responsible - or *vice versa* - regarding the possibility of a RJ process;

- 5.4 judge especially carefully what information may be given to one participant about another, or to anyone else, given the implications for their emotional and physical safety - particularly where codes and code words can appear innocuous and be obvious only to the person harmed and the person responsible;

## B. SUPPORT STRUCTURE

### *Case-Supervision*

#### **B1. To case supervise a RJ Facilitator effectively, you need to be able to . . .**

- 1.1 assess whether the supervised Facilitator is working in accordance with best practice, whether the case is progressing satisfactorily, and whether adequate risk assessment is in place;
- 1.2 identify, with the Facilitator, any instances where the Facilitator's skills or experience are insufficient to handle the sensitivity or complexity of the case, and in any such instance, to:
  - communicate this to the Facilitator;
  - help them identify how to secure the support needed to continue working the case (e.g. from a more experienced or specialist Co-facilitator); or
  - refer the case on;
- 1.3 help the Facilitator to find new ideas and fresh perspectives on how to work cases, without disempowering them, and identify any ways in which their approach may need amending, by assessing whether they have:
  - put in place measures to manage all important risks and sensitivities;
  - selected an appropriate process for the participants and their needs;
  - included, as far as possible, all the stakeholders who need to be involved;
  - ensured that the process is focusing on the important issues;
  - ensured outcome agreements are realistic and do not have obvious unintended consequences;
  - made the process consistent, if possible, with any context in which it is taking place (e.g. consistency of plans for completing the case with statutory timescales);
  - put in place arrangements, if necessary, to follow up any Action Plan and provide for any long term support needs of participants;
  - considered whether participants have any special needs and responded appropriately;

- 1.4 provide emotional and personal support to the Facilitator, including through:
  - empathic active listening;
  - identifying when referral to further, independent sources of support, such as counselling services, may be appropriate, sensitively raising this with the Facilitator and assisting with a referral where necessary;
- 1.5 where the Case Supervisor is not the Facilitator's Line Manager, maintain a relationship with the Line Manager as agreed with the manager and the Facilitator, taking into account:
  - the Facilitator's possible need for a degree of confidentiality in the supervision process;
  - the manager's possible need for general information on the quality of RJ processes they are responsible for;
  - the need of participants in RJ processes, and the requirements of the law, for action to be taken if the Case Supervisor uncovers a serious risk of harm;
- 1.6 if there are serious concerns about the safety of the Facilitator's work, raise this with their Line Manager, and, if necessary in a particular case, to recommend that the case be closed or passed to another worker;
- 1.7 apply, wherever appropriate, restorative justice principles and facilitation skills in the supervision process.

### ***Line Management***

#### **B2. To line manage a RJ Facilitator effectively, you need to be able to . . .**

- 2.1 have a general understanding of RJ principles and practice, including the ability to offer a definition of RJ processes that makes reference to:
  - balancing the distinctive needs of persons harmed, persons responsible and communities;
  - RJ as a process;
  - the aims of RJ and potential outcomes;
  - the emphasis on resolving and reducing harm;
- 2.2 articulate a strategy for sustaining and developing the use of RJ processes;
- 2.3 demonstrate a commitment to RJ principles and processes;
- 2.4 ensure that key stakeholders in the process understand the basic principles of RJ and why it is being used;

- 2.5 put in place the key resources for successful RJ processes to take place, which would include:
- ensuring a realistic balance between case-flow and time for quality work which responds to the needs of participants;
  - where possible, support required to monitor and complete any Action Plan;
  - partnership with other agencies, such as referral agencies or agencies that are working with participants or that are able to help participants complete any Action Plan;
- 2.6 put in place key policies and procedures needed for successful RJ processes to take place, for example:
- a suitable risk assessment process for all Facilitators to use;
  - data sharing protocols with partner agencies, and a confidentiality policy;
  - clear definitions of roles and case referral arrangements between Facilitators and others in the service or organisation;
- 2.7 put in place quality assurance measures, including ensuring that:
- all Facilitators are trained to work in accordance with the standards in this document;
  - all Facilitators have access to the resources needed to develop and improve their practice, including through advanced training in RJ and professional development courses;
  - all sensitive and complex cases, as defined in Section 3, are referred to appropriately skilled and experienced Facilitators;
  - Facilitators have access to both a Co-facilitator and a Case Supervisor, in accordance with the standards set out in this section – either providing these roles yourself or contracting them out;
  - information on outcomes of cases, for example feedback from some participants, is collected and used to inform and develop strategy and practice;
  - restorative justice is accessible and sensitive to all sections of the community.

### ***Co-Facilitation***

#### **B3. To ensure that the RJ process will be co-facilitated effectively, the RJ Facilitator needs to be able to . . .**

- 3.1 consider, in discussion with the Case Supervisor, whether the case would benefit from a certain combination of Co-facilitators in any meeting,<sup>14</sup> for instance where at least one Facilitator:

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<sup>14</sup> It is best practice for Co-facilitators, wherever possible, to accompany the Facilitator to the initial invitation meetings, and in some cases to preparation meetings as well - particularly where safety or one of the issues in C2.1 are a concern.

- has specialist knowledge, for example, in mental health or child welfare;
- is from the same language or ethnic background as one or more of the participants;
- lives and/or works in the community where the incident or offence took place, if this is likely to result in better outcomes for the participants;
- has a characteristic that can minimise a power imbalance between participants (for example, a female Facilitator, supported by a male Co-facilitator, could be used where gender issues surround the offence);

3.2 establish clarity about the role of the Co-facilitator, which can include:

- *role modelling and case supervision* for a less experienced Facilitator;
- *ongoing learning* for fully competent Facilitators, by helping them to reflect on what went well, what didn't go so well and other ways in which situations could have been handled, aided by constructive criticism from a respected and respectful Co-facilitator;
- *practical support*, e.g. the Co-facilitator may (a) accompany participants who want 'time-out' or separate meetings; (b) welcome and bring in participants as they arrive; (c) write down the Action Plan, and read it back to the group to establish clarity; (d) help with setting up the venue and providing refreshments; (e) emotional support and de-briefing for the Facilitator;

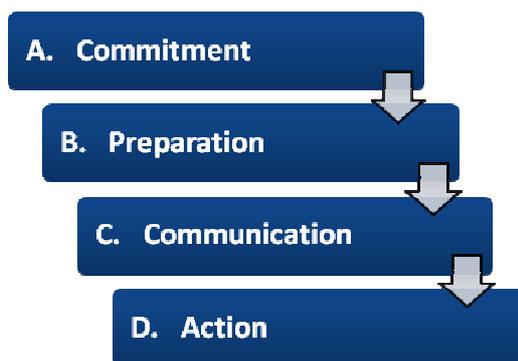
3.3 assess with the Co-facilitator how you will work together, which includes:

- sharing and reviewing with the Co-facilitator any preparatory work, ensuring that no sensitive or personal information about the participants is conveyed to the Co-facilitator without their express permission;
- planning how you will distribute roles and tasks before, during and after communication or meeting with any participants;
- trying to anticipate what might go wrong and how you could support one another (e.g. if one of the participants leaves a meeting, will one of you follow them, and if so who, and with what aim);
- agreeing how you will communicate with one another and give feedback;
- discussing different working styles and agree how any differences of approach will be handled;
- exchanging feedback and debriefing each other, with assistance from a Case Supervisor if necessary;
- allocating any administrative or follow up tasks associated with the RJ process and, if any information about it needs to be passed on to others, deciding who will do this;
- ensuring there is clarity as to who is undertaking monitoring, supervision and feedback about completion to other agencies or to the person harmed;

- 3.4 ensure that the Co-facilitator understands that the Facilitator takes the lead in any meeting with participants, which means that:
- the Facilitator's role in the meeting is to introduce, guide and close the discussion, and so the Co-facilitator should in no way attempt to over-take or compete for this leadership role;
  - the Co-facilitator is there only as a back-up or support role, and should speak in a meeting only if (a) they are called upon to do so by the Facilitator, (b) there is a major lapse in the Facilitator's judgment or a procedural error that requires immediate intervention, or (c) they are checking with the participants to ensure that they have written up the Action Plan accurately.

## 2 | Facilitating a RJ process

Facilitating a RJ process involves four basic stages: enabling the individuals concerned **(A)** to make a commitment to participate, **(B)** to prepare for whatever process they have selected, **(C)** to communicate with each other or separately, and **(D)** to take whatever action they have agreed upon. Each stage has its own set of best practice standards. These are presented in the following four sub-sections.



### A. COMMITMENT

Once a referral is made, the Facilitator will need to invite the individuals concerned to participate in a RJ process. This involves **(A1)** assessing the appropriateness of RJ for those individuals; and **(A2)** enabling them to make an informed choice about their participation.

#### Initial Assessment

**A1. To assess the appropriateness of RJ for the individuals concerned, the Facilitator needs to ensure that . . .**<sup>15</sup>

- 1.1 the person responsible is willing, at this stage<sup>16</sup>, to be accountable for their actions, which includes:
  - a full and free acknowledgment of their part in what happened and the harm that their actions have (or may have) caused to specific persons and/or communities;
  - expressions of genuine remorse for their actions;
  - a willingness to make amends or repair the harm they have caused;

<sup>15</sup> Facilitators normally contact the person responsible prior to the person harmed. This avoids re-victimising the person harmed if the person responsible decides not to participate. In serious and complex cases, the views of the person harmed about the possibility of RJ may need to be taken into account before the person responsible is approached. But even in this preliminary conversation with the person harmed, the Facilitator should not offer them an invitation to participate in RJ, for the reason given above.

<sup>16</sup> This willingness to be accountable and sense of remorse is likely to increase in depth during and as a result of the process, but there must be sufficient evidence of its presence from the outset.

- 1.2 the process will be *voluntary* for each person, which includes ensuring that they are not coerced, pressured, or induced by unfair means:
  - to take up the invitation to have the process explained to them by a Facilitator;
  - to participate (or continue to participate) in a RJ process;
  - to enter into any agreements as part of the restorative justice outcome;
- 1.3 any risk of emotional or physical harm has been identified, which includes:
  - accessing any pre-existing information about the individuals concerned, including any criminal history or previous actions in which they have caused harm, mental health diagnoses and current stabilisation status, substance misuse and current treatment status and physical or learning disabilities;
  - accessing professional advice, particularly on matters that lie outside the Facilitator's expertise (e.g. mental health issues);
  - recording all risk concerns identified;
- 1.4 any identified risks can be managed, which includes:
  - recognising when the risk is so great that a RJ process should not be offered;
  - exploring with the individuals directly the identified risks and how they might be managed;
  - communicating any risk concerns to the Case Supervisor and, if appropriate, the Line Manager and/or partnership agency (e.g. all child protection concerns, substance misuse agency, mental health professionals);
  - ensuring that, if a case is assessed as involving complex issues of intimidation and vulnerability, then a request is made for assistance and support from a senior RJ Facilitator, other professionals and/or a specialist support service outside the field of restorative justice;
  - considering whether the type of RJ process offered should be restricted to either indirect or no communication;
  - selecting venues for meetings that will maximise safety and minimise any anxieties or concerns;
  - exploring with individuals their concerns and wishes in regard to the presence/absence of support persons;
  - responding to verbal or physical aggression in ways that minimise risk;
  - continuing risk assessment and management throughout the process.

## ***Choosing to Participate***

### **A2. To enable individuals to make an informed choice about their participation, the Facilitator needs to . . .**

- 2.1 provide clear and accurate information to all individuals about:
  - the purpose, potential benefits and limitations of a RJ process;
  - the different RJ processes available to them, including a description of what actually happens in each process, the likely timescales, and who else could be involved;
  - the roles and responsibilities of those who will be involved;
  - the links between restorative justice and other interventions;
  - the legal implications (if any) of participating or of not participating for them and the others involved by providing them with accessible, ongoing and independent legal advice;
  - alternatives to RJ processes (if any);
  - who will have access to information about individuals in the process;
  - the steps taken to maintain the confidentiality of information and the reasons for this;
  - how long information is held on record, and what information is held;
- 2.2 communicate with individuals throughout the process in a manner which:
  - treats them fairly, with dignity and respect, whilst recognising the harm that has been caused;
  - is appropriate to them;
  - enables them to make informed decisions about whether and to what extent to participate in RJ processes;
  - encourages an open exchange of views;
  - minimises any constraints to communication;
  - is free from discrimination and oppression;
  - keeps the options of different forms of RJ processes open throughout;
  - allows them the time and space they need in which to make decisions;
- 2.3 encourage individuals to describe their expectations of RJ processes and the possible outcomes;
- 2.4 encourage individuals to raise any questions and express any anxieties they have about RJ processes;
- 2.5 encourage all participants to make a realistic assessment of:
  - any risks involved, and how these can be managed;

- their feelings, attitudes and behaviour toward the other participants;
  - their emotional resilience and ability to cope with a RJ process;
  - their motivation for being involved;
  - whether their expectations of the process are realistic;
  - any previous history they might have with other participants;
  - any potential power imbalances they might have with other participants, caused by communication skills, first language, culture, socio-economic status, physique, age and pre-defined roles of 'victim' and 'offender';
  - the potential benefits that RJ processes may bring;
  - the likelihood of the process reaching a conclusion which benefits all those involved;
- 2.6 discuss the outcomes of the initial suitability assessment fully with the individuals involved and find out their willingness to proceed;
- 2.7 offer individuals information about other agencies and services that may provide additional and independent advice and support to them either during the RJ process or as an alternative to the RJ process, and assist them in making contact when they wish this to happen;
- 2.8 make accurate and complete records of discussions and agreements with individuals about RJ processes, provide copies to those who are entitled to and require this information and store these records in a way that takes account of agency arrangements for confidentiality.

## B. PREPARATION

*Once the individuals concerned decide to participate in a RJ process, the Facilitator will need to ensure that they are fully prepared to do so. This involves enabling them **(B1)** to make informed choices regarding the RJ process, and **(B2)** to be fully prepared for their participation in that process.*

### ***Choosing Processes***

**B1. To enable participants to make informed choices regarding the RJ process, the Facilitator needs to . . .**

- 1.1 work with individual participants to decide which RJ process, if any, is appropriate, by:
- seeking participants' views as to which RJ process would best meet their needs, whilst making clear that the other processes remain open to them at all times, depending on the wishes of the other persons involved;

- ensuring that participants can access RJ processes that are appropriate to their cultural identity and expectations, if other participants agree;
- informing participants about the likelihood of strong emotions being expressed and assessing with them their ability to cope with their own and others' strong emotions;
- giving participants clear information about the expectations or preferences of the other participants regarding the process (where they have agreed for this information to be shared);
- informing participants about what topics are or are not likely to come up in any direct or indirect communication;

1.2 take into consideration:

- your risk assessment, and the measures you have in place to manage the risk;
- which process is most likely to suit all the participants' communication skills;
- the amount, complexity and nature of messages participants need to exchange, and how efficient and effective it would be for them to do so using either direct or indirect communication, given constraints of time, resources and legal requirements;

1.3 consider the involvement of others in the RJ process by:

- asking the person harmed and person responsible who they want to be involved in the RJ process, ensuring that no one is involved against the wishes of either individual;
- assessing who else in the participants' circles have been harmed by what has happened, and might therefore benefit from being involved in RJ processes;
- assessing who in the community or organisation has been most affected by the incident, or is best placed to communicate the harm effectively to the person responsible, or to contribute to forming and/or implementing an Action Plan (that is, in cases where no individual has been directly harmed);
- risk assessing any additional participants (support persons, invited persons, observers) in the process, taking account of available measures to manage these risks;
- assessing the willingness and ability of any additional participants to engage with the purpose of the RJ process, and to contribute to a positive outcome;
- balancing the benefits of a wider group of people participating with the available time and resources required to prepare for and manage the increased complexity and practical issues (e.g. locating a large enough room);
- deciding whether one RJ process will meet everyone's needs, or whether one process (e.g. Shuttle Dialogue) is more likely to meet the needs of some participants, whilst another process (e.g. a RJ Conference) is more likely to meet the needs of others;

- making a clear assessment with the participants of the most important issues and harms from all participants' points of view and prioritise these within time and resource constraints;
  - taking into consideration any legal requirements and best practice guidance (e.g. regarding the involvement of parents) and act on this;
- 1.4 enable participants to choose an appropriate RJ process, by:
- considering with participants how to ensure that they can all contribute as fully as possible;
  - assessing the impact of any power imbalances that exist, and planning a structure or selecting a process which is likely to minimise the impact of these imbalances;
  - assessing which process will most likely enable the participants to reach a positive conclusion in the available time;
  - ensuring that no process is chosen which goes against the wishes of any of the participants.

### ***Preparation***

#### **B2. To enable individuals to be fully prepared for their participation in a RJ process, the Facilitator will need to . . .**

- 2.1 enable participants to ask questions about any material they were given in advance about the RJ processes available;
- 2.2 review with individuals their reasons for being involved in RJ processes, supporting those who change their mind at any stage to access alternative support;
- 2.3 where participants have chosen to meet, but then change their minds during the preparation, explore with individuals who have decided not to proceed:
- their reasons and concerns, whilst respecting their decisions;
  - the support that is available to them throughout the process;
  - the option of indirect communication as an alternative process;
- 2.4 where one of the participants has chosen to stop the process altogether, provide additional support:
- if they have decided they can no longer participate in RJ processes due to the negative effects on them;
  - if the participant who would have chosen to continue the process is experiencing feelings of disappointment, anger or anxiety about the lack of resolution;
  - if the participant who has chosen to stop the process is experiencing feelings of guilt or self-blame about their decision;

- 2.5 assist individuals to find ways of managing their anxieties about RJ processes when they have decided to participate in them, for example, by:
- pacing the process appropriately to meet their needs;
  - providing information on how to contact the Facilitator out of agreed hours;
  - agreeing on the support that will be available to them and how this will take place;
  - assuring them of their ability to withdraw from the RJ process or change to another process at any time;
  - providing reassurance that although their feelings and reactions are unique to them as individuals, they are not uncommon responses to the experience of harm and RJ processes;
  - responding to their description of the RJ process and the (actual or possible) effects of this experience in a manner which acknowledges their right to express their feelings;
- 2.6 encourage and assist the person responsible to:
- identify and reflect upon their behaviour, the factors that contributed to it and the impact that their behaviour has (or may have had) on the person harmed and others;
  - take responsibility for their part in what happened and its impact on others;
- 2.7 encourage and assist the person harmed to:
- identify and reflect upon the nature and consequences of the harm done to them and others close to them;
  - find effective ways in which, if they choose to, they can express this during a RJ process;
  - clarify their views and needs and be involved in the selection of appropriate processes (see B1);
- 2.8 encourage individuals to consider:
- whether reparation might be appropriate;
  - if so, what the reparation might be;
  - to whom the reparation should be made;<sup>17</sup>
- 2.9 gather information relevant to the RJ process, by:
- making accurate and complete records of discussions and agreements with individuals, the decisions that have been reached and the arrangements that have been made;<sup>18</sup>

<sup>17</sup> Actually deciding on reparation takes place later in the process – see section below on Action Plans.

<sup>18</sup> Agreements may include the venue and time of any meetings, arrangements for arrival and departure and any steps that need to be taken to protect the safety of individuals.

- recording for each item of information, whether it is for the Facilitator alone at this point or whether the relevant individuals have agreed to share this information with other participants, either as part of an indirect communication or prior to any direct communication;
  - recording how each item of information is to be shared, for example, by phone, letter or face to face;
  - recording information in a way that makes it possible to relay information to one participant without disclosing sensitive risk assessment information about other participants, or any other information that they have not agreed to share with the other participants;
  - ensuring that information is recorded and stored in a way that takes account of agency arrangements for the confidentiality of records;
- 2.10 relay the information each participant has asked to be passed on in a way that takes into account:
- what the recipient has indicated they wish to know;
  - whether the information could cause further serious harm, in which case a Case Supervisor or more experienced RJ Facilitator should, if possible, be consulted for guidance as to what to pass on;
  - the need to make it clear when information has come directly from the other participant, and when it is based on your own assessment of the situation.

## C. COMMUNICATION

*Once individuals have been prepared, the Facilitator will need to enable them to engage in whatever type of communication with each other (if any) they have chosen, including (C1) direct communication, (C2) indirect communication or (C3) no communication. This includes (C4) enabling participants to form an Action Plan.*

### ***Direct Communication***

#### **C1. For any RJ process involving direct communication, the Facilitator will need to . . .**

- 1.1 assess when it is safe and appropriate to bring the preparation phase to a close and make the necessary arrangements for direct communication to take place;
- 1.2 plan for direct communication, by:
  - assessing whether participants are likely to need or want separate meetings or time out, and if so, planning accordingly;
  - assessing the likelihood of strong emotions or conflict and how, as the Facilitator, they will manage this;

- giving all participants clear information about the normal structure of the meeting, as practiced by the Facilitator's agency, so as to create a sense of safety and clear expectations;
  - informing all participants that, while the Facilitator's role is to stick as closely as possible with this structure, if it is no longer meeting the aims of the overall process, then they will discuss alternatives with the participants and agree to a new way forward;
- 1.3 ensure that, if observers have been invited, then the Facilitator will:
- inform all participants about the possibility of observers being present;
  - check whether all participants are willing for this to take place;
  - inform participants about where in the room observers will be sitting, and obtain their agreement to this;
- 1.4 select a suitable venue and prepare the venue appropriately, which includes:
- setting up seats according to a seating plan that enables participants to enter into a safe, open and honest dialogue;
  - ensuring the premises will meet the needs of all the participants;
  - ensuring that the safety and security of participants is taken into consideration in travel arrangements to and from the premises;
  - where possible, helping to arrange and/or reimburse the cost of the participants' travel to and from the premises;
  - ensuring that the venue allows for quick and easy access to security personnel, should they be required;
- 1.5 ensure that meeting protocols are pre-agreed with the Co-facilitator and that both understand their roles, as do the participants, which will involve:
- explaining to the participants that a Co-facilitator will be involved and why;
  - making manifest their respective roles and relationship (i.e. lead and support) in the way the Facilitator and the Co-facilitator interact with one another;
- 1.6 manage the arrivals of the participants, ensuring that where possible:
- the participants do not have to meet or wait together prior to the meeting;
  - they are not left on their own without access to support and information while waiting;
- 1.7 remind all participants, once they are seated, about:
- the purpose of the meeting;
  - the ground rules relating to behaviour and language;
  - why it is important that everyone involved in the process follows the ground rules and what will happen if they do not;

- the agreed structure of the meeting;
- 1.8 confirm individuals' agreement to proceed on this basis;
- 1.9 guide the participants through the following stages of a restorative justice meeting, using the normal or agreed structure to sequence the participant's speaking turns within each stage, allowing for flexibility where appropriate:
- what happened;
  - how people have been harmed or otherwise affected;
  - how all concerned can begin to move forward, a discussion which may result in the formulation of an Action Plan;
  - refreshments are normally offered to all participants at the end of the meeting;
- 1.10 communicate with individuals and encourage them to communicate, in a manner which:
- acknowledges their situation and their rights within the process;
  - treats those involved fairly, with dignity and with respect, whilst recognising the harm that has been caused;
  - is appropriate to those involved;
  - encourages an open exchange of views;
  - minimises any constraints to communication;
  - is free from discrimination and oppression;
  - addresses each person in the way they wish to be addressed;
- 1.11 work sensitively and co-operatively with the Co-facilitator, which includes:
- listening to the tone and content of the Co-facilitator's words, to monitor their assessment of the meeting and the participants;
  - not speaking over or interrupting the Co-facilitator;
  - taking a break, if necessary, to check with the Co-facilitator on how things are going;
  - when the Co-facilitator is actively facilitating the meeting, use the time to watch them and the participants and to reflect on the way forward;
- 1.12 assess whether the structure agreed with the participants prior to the meeting is still enabling them to communicate well with one another, and, if not, have the flexibility to change it;
- 1.13 assess whether at any point it is necessary to stop the meeting, call time out, or have separate meetings;
- 1.14 when unexpected issues arise, assess which issues should be dealt with during the meeting, and which are more appropriate to suggest dealing with outside the meeting;

- 1.15 promote the independence of individuals during RJ processes in accordance with agreements previously reached with them;
- 1.16 continuously monitor individuals':
  - emotional and physical well-being, through verbal and non-verbal cues;
  - compliance with the ground rules established at the start, taking appropriate action if the ground rules are not adhered to;
- 1.17 identify promptly and accurately any signs that indicate potential harm and intervene immediately to protect individuals;
- 1.18 make constructive contributions to the process, without suggesting 'solutions';
- 1.19 facilitate the exchange of information between individuals in a way which:
  - encourages everyone to contribute actively and fully in the process;
  - moves the process forward at a pace that balances the needs of everyone involved and the need for a fair and respectful process, with the time and resources available;
  - encourages individuals actively to participate in the formulation of an agreed Action Plan (see C4 below);
- 1.20 maintain agreed confidentiality, in any record-keeping, relating to the actual content and contributions to the RJ process.

### ***Indirect Communication***

#### **C2. For any RJ process involving indirect communication, the Facilitator will need to . . .**

- 2.1 assess when it is safe and appropriate to bring the preparation phase to a close and start the process of conveying information between the participants in a way that is intended to bring about a final agreement or conclusion of the matter;
- 2.2 enable the participants to select the most suitable method for sharing information indirectly, including written communication (including Braille), videotape, audio, or the Facilitator's 'voice', maintaining a flexible approach throughout the overall process;
- 2.3 where appropriate, help the person responsible to plan how they could write a letter whilst ensuring that the letter's contents represent their views, taking into consideration:
  - the ability of the person responsible to express themselves on paper, and possible need for support;
  - the possibility of enlisting the help of their supporters or others to assist them;

- the need to manage expectations about the contents and style of the letter;
  - the need for letters to be both honest and respectful;
  - the need for letters to address the concerns of the person harmed;
  - the need to risk assess letters for any hidden messages;
- 2.4 hand over the letter to the recipient, in person, once it has been checked for appropriateness and when the person harmed has agreed to receive it.

### ***No Communication***

#### **C3. For any RJ process that involves no communication between the person harmed and the person responsible, the Facilitator will need to . . .**

- 3.1 establish that it is unsafe, inappropriate or otherwise not possible<sup>19</sup> for the person responsible and the person harmed to enter into any form of communication with each other, and also that either one or both agree that it would be beneficial for them to discuss the harm and its impact in a restorative manner with the Facilitator, *separately*, taking into account that:
- whilst such an approach can have genuine RJ outcomes, it is, by nature, limited or less effective than RJ processes that involve some form of communication, in terms of delivering the full potential of restorative justice;
  - the decision to use such an approach should be taken only if there is sufficient evidence that this is the most effective and beneficial RJ process possible, in light of the circumstances and choices of the participants;
  - the Facilitator's role is to explore with each person, where possible, any fears, anxieties or concerns that may be leading them to decide against any form of communication, and, where appropriate, to reassure them of the safety and the comparative benefits of RJ processes that involve communication;
  - should only one person decide not to engage in any form of communication, providing the opportunity for a RJ process that does not involve communication ensures that their decision does not penalise, disadvantage or otherwise harm the person who has already agreed to participate in a RJ process of some kind;
  - once started, such a process can lead to the participants deciding to communicate, in which case you should make the necessary arrangements;
- 3.2 ensure that, if an RJ process involves only the person harmed<sup>20</sup>, then that will include holding discussions that enable them to reflect on:
- their experience of what happened;

<sup>19</sup> This would include not being able to contact or identify one of the individuals, and establishing that one individual does not want any communication with the other, and yet is willing to engage in a RJ process of some kind.

<sup>20</sup> In this document, this kind of RJ process is called 'Support for Persons Harmed'.

- their short- and possible long-term reactions to the incident;
  - the harm that it has caused to them and those close to them;
  - what actions they can take to protect themselves;
  - what strategies might assist their recovery process;
  - how they might access other services or types of support;
- 3.2 ensure that, if an RJ process involves only the person responsible<sup>21</sup>, then that will include holding discussions that enable them to reflect on:
- their part in what happened;
  - the harm that it has (or may have) caused;
  - what actions they can take that would, materially and/or symbolically, express their sense of accountability and remorse;
  - how they can address some of the underlying causes of their behaviour.

### ***Action Plan***

#### **C4. To enable the participants to form an Action Plan,<sup>22</sup> the Facilitator will need to . . .**

- 4.1 establish, in advance, the kinds of actions that might (or might not) be appropriate for both the person responsible and the person harmed, which includes conducting or obtaining an assessment of:
- the underlying causes of the behaviour of the person responsible, in consultation with relevant professionals;
  - the ongoing consequences of the behaviour for the person harmed;
  - the need for and availability of services or input that may help to address these causes and consequences, for example, cognitive-behavioural programs, mentoring, employment skills, counselling, health issues, etc.;
  - the kind of reparative tasks that will (or will not) be realistic and appropriate given the wishes and needs of the person harmed, the abilities of the person responsible, the support available, any statutory requirements, inter-agency monitoring arrangements, insurance restrictions, and the consequences of non-compliance for both the person harmed, the person responsible and their respective communities of care;
- 4.2 enable participants to think about and discuss what forms of reparation may be helpful, realistic, and can be effectively carried out, taking into consideration:
- the abilities of the person responsible;
  - the wishes and needs of the person harmed;

<sup>21</sup> In this document, this kind of RJ process is called 'Victim Awareness' or a 'Restorative Conversation'.

<sup>22</sup> An Action Plan may form part of any RJ process.

- what kind of reparation, if any, would be appropriate to the harm caused, and to whom the reparation should be made;
  - that, if the person harmed nominates an individual or agency to be the recipient for reparative activity, then the Facilitator will first need to check their suitability, the feasibility and wishes;
  - the need for any reparation activity to be clearly defined, measurable and supported by the participants;
  - whether appropriately trained supervisors are available to supervise any reparative work;
  - the support available to help the person responsible to complete the Plan;
  - that, if possible, the Action Plan should specify who will provide the person responsible with support to complete their Action Plan, if support is needed;
  - the timing of any financial, practical or emotional reparation, and a schedule for completion;
  - any health and safety implications of the proposed reparation;
  - whether insurance is in place to cover any practical work planned;
  - any other practical issues relating to costs, transportation etc.;
  - whether reparation has been agreed with the free informed consent of everyone present;
  - if money is to be handed over, arrangements must be in place to document its movements and have them witnessed;
  - whether or not the Action Plan forms a legally binding (breachable) agreement, whether completion is voluntary, the consequences for non-compliance for all concerned, and inter-agency monitoring arrangements;
  - the support available to help the person harmed if there are any aspects of the Action Plan that involve their participation, commitment or activity;
  - that, if possible, the Action Plan should specify who will provide the person harmed with support, and what kind of support is required, if the Action Plan specifies that this support is needed;
- 4.3 ensure that an accurate record of what has been agreed as the Action Plan is made, which includes:
- writing the Action Plan and checking it for accuracy with all participants;
  - asking them to sign the Action Plan to indicate that they agree with its content;
  - providing all participants with copies of the Action Plan as soon as possible, unless this is not required or desired by participants.

## D. ACTION

*Once an Action Plan has been agreed, the Facilitator will need to follow up the RJ process by (D1) monitoring the completion of any Action Plan, (D2) evaluating the process, and (D3) providing ongoing support, as required.*

### Monitoring

#### **D1. To monitor the completion of any Action Plan, the Facilitator will need to . . .**

- 1.1 support the person harmed, person responsible and other participants to complete their respective components of the Action Plan, or ensure that an appropriate support person is nominated by the participants to provide such assistance<sup>23</sup>;
- 1.2 assess and record whether or not individuals have completed their respective components of the Action Plan;
- 1.3 assess whether any further support you could realistically give would enable the them to complete their respective components of the Action Plan - but if not, or if these further actions are ineffective, then:
  - sensitively informing the person harmed whether or to what extent the person responsible has completed their components of the Action Plan;
  - informing any other agencies (whom you have a statutory (or other) duty to inform) whether or to what extent the person responsible has completed their components of the Action Plan;
  - where the person responsible has not complied with the Action Plan, and where it has formed part of a statutory (or other) requirement, ensure that structures are put in place for passing this information back to the appropriate agency;
  - enabling the person harmed and/or other participants to come to a decision about whether or to what extent they would like to continue endeavouring to complete their component of the Action Plan, if any;
- 1.4 encourage individuals to consider whether, following the completion of the Action Plan, there is any further communication (direct or indirect) that they need or want in order to address remaining or new issues;
- 1.5 facilitate closure by agreeing with individuals involved when it is right that the process is at, or should come to an end.

<sup>23</sup> For example, in a school the principal, assistant principal and/or student welfare coordinator might be the person(s) nominated to provide this kind of support.

## ***Evaluation***

### **D2. To evaluate the RJ process, the Facilitator will need to . . .**

- 2.1 relay agreed information about outcomes to other parties as agreed by the participants;
- 2.2 provide the participants with the opportunity to discuss openly and honestly their thoughts and feelings about the RJ process and its outcomes;
- 2.3 offer constructive feedback to individuals about their contributions to the process, emphasising the positive aspects of their role.

## ***Support***

### **D3. To provide ongoing support, the Facilitator will need to . . .**

- 3.1 encourage individuals to consider their need for further support and information, which includes:
  - discussing the ways in which such support could be provided, and the most appropriate means of accessing support;
  - making the appropriate arrangements, when your agency agrees with the individual, to make a referral on their behalf;
- 3.2 informing individuals about any arrangements for further contact with your agency and exploring their willingness to take up any follow-up contact that the agency offers, including long-term arrangements;
- 3.3 enabling your agency to make any follow-up contact for evaluation purposes with the participants.