

A RESTORATIVE JUSTICE APPROACH TO WORKING WITH CHILDREN IN RESIDENTIAL CARE

Dr. Willie McCarney
Northern Ireland

A child is at greater risk of obtaining a criminal record following entry to the care system than a child living at home with the support of his/her family¹. Consequently, there is a very real need to focus thinking on the reasons why this should be and to develop a response which may reduce that likelihood.

One of the greatest risk indicators is living in residential care and the collective influence of living with other troubled young people. Research² suggests that much of the early offending takes place in the residential children's home and as the situation deteriorates increasingly the police are called in to defuse it and more often than not an arrest is the outcome.

The research referred to looks at offending behaviour in “regular” children’s homes. I will be focusing on Intensive Support Units which deal with the most damaged and troubled young people in residential care.

Many of these young people already have a history of serious offending on entry to the units. Court appearances frequently relate to offences which predate their arrival. That is not to say that the research I will be commenting on does not apply to these particular children. Indeed the use of Restorative Practices is even more important in their case. What it does mean is that the baggage children carry with them on entry makes working with them so much more difficult. It also means that formal approaches like family group conferencing are not always practical. Responses need to be immediate and “on the hoof”. These might be things like a “corridor conference”, “restorative chat” or “restorative discussion”. Success depends not so much on the response chosen but rather on whether a “restorative ethos” permeates the unit.

This paper will examine the potential of restorative conferencing and a less formal restorative justice approach in managing challenging behaviour in children's homes. It will highlight the need for adapting the approach to meet the needs of the more damaged and disturbed children found in Intensive Support Units. It will explore the extent to which such an approach can deal with incidents when *looked after* children commit crimes within residential homes enabling the incident to be resolved away from the formal criminal justice system.

I have carefully avoided the use of the term “offender” throughout this document because it is important to note that these children are all victims. For that reason I have decided to use the term “wrongdoer” to identify the person responsible for the offence and to distinguish him/her from the person who has been harmed whom I simply refer to as the victim.

¹ NACRO, 2003a, *Reducing offending behaviour by looked after children*. London: NACRO

² NACRO, 2003a, *ibid*; DFES, 2006a, *Care Matters: transforming the lives of children and young people in care*. HMSO

Intensive Support Units

Let me begin by outlining what I mean by *Intensive Support Units*.

The development of Intensive Support Units (ISUs) has been influenced by a number of acute pressures on residential child care services in Northern Ireland over the past 20 years. Successive Health and Personal Social Services Regional Strategies during the 1980s and 1990s aimed to enhance preventative and foster care programmes of intervention as alternatives to, and often at the expense of, residential care. As a result of this legacy of neglect and undervalue, the residential service had become, by the mid 1990s, a placement option of last resort for children. Over the period there was rapid retraction in the number of service providers, particularly in the voluntary sector, and a massive reduction in the number of residential child care places.

In 1998 the Department of Health, Social Services and Public Safety carried out a regional review of the quality, level and distribution of children's homes. The ensuing *Children Matter* Report (October 1998) confirmed that the sector was reaching crisis point due to, inter alia, a serious shortage of places, an absence of placement choice, the poor standard of the stock of the existing homes and the lack of differentiated and specialist homes for children who had complex needs and/or presented with challenging behaviours. The Report presented a worrying profile of the sector, with the majority of homes characterised by: 'the inappropriate placement of children; overcrowding; high incidents of unauthorised absence; unacceptable levels of violence; and an over-reliance on secure accommodation to effect control'.

In response to the Report's findings the Department, in 2000, set up a Ministerial Children Matter Task Force to deliver on a Regional Action Plan, in two phases:

- the development of a continuum of regional specialist accommodation; and
- the creation of a range of sub-regional specialist and local differentiated provision to address the failings and deficiencies within the sector.

In the first phase of the Children Matter Task Force locally differentiated provision was extended and, by 2001, 163 additional and replacement places had been created. However, it was recognised that, if the differentiated homes were to operate successfully, they needed to be supported by a regional infrastructure of small, highly specialised units to cater for children who had complex needs, and were emotionally traumatised.

The Eastern Health and Social Services Board, following a wide ranging consultation process, assessed that it would require 5 specialist units, which it termed Intensive Support Units (ISUs). To ensure that the expertise of the existing residential staff was retained, the ISUs were to be developed by reconfiguring services at Glenmona and Lakewood to replace the 6 Regional Care Centres in operation on their respective sites. As a first step in this process the Eastern Board, in April 2005, commissioned the then North & West Belfast Trust and Glenmona to develop a Unit on the Glenmona site, as a prototype ISU, to serve as a pilot for this residential model. The focus of this paper is on the Glenmona ISU unit.

As mentioned above this unit had to cater for children who had complex needs, and were emotionally traumatised. Let me give you some examples of how complex these needs were.

Case Study A – 15 year old male

- school refusal since age 11
- serious drug misuse - class 'A', 'B' & 'C' drugs, such as cannabis, crystal meth, cocaine.
- absconding for 4-5 days at a time
- incidents of violence with weapons – knives, knuckle dusters etc - directed towards mother, step-father, grandmother & professionals involved with the family
- criminal damage in family home & grandmother's home on daily basis
- psychiatric issues - mother & grandfather have serious mental health issues
- diagnosed with 'capgras syndrome'³
- dual diagnosis - addiction & mental health issues
- withdrawn (would not speak to staff for approx 2 months)
- paranoid
- untrusting
- experienced several psychotic episodes
- threatening staff - weapons removed from bedroom- knives, knuckle dusters & meat cleaver
- continual drug misuse
- No appropriate facilities available in Northern Ireland for dual-diagnosis. Placement secured in Middlegate, England but could not be availed of as law required young person to be detained in Northern Ireland for 7 days prior to transfer. No facility would hold a young person citing dual diagnosis & violent threat as reason for detention under the NI Mental Health Act.
- He was placed in the ISU.

Case Study B – 16-year old male

- learning disability – IQ 52 – This is exceptionally low
- dual diagnosis - learning disability, mental health – Obsessive Compulsive Behaviour, Sexually Harmful Behaviour - no appropriate facilities available in Northern Ireland.
- sexually harmful behaviour directed towards his sister and young people in the community - no discrimination between male or female.
- charged in court with sexual offences – listed as a “Schedule 1” offender (a serious sexual offender).
- had come to attention of local paramilitaries. Family had previously been forced to leave a number of areas due to this young man apparently abusing young people in those communities
- uncle had been murdered by paramilitaries a few years earlier - they alleged he was a paedophile
- physically abusive behaviour towards mother
- grandmother had just passed away

³ **Capgras syndrome** is a disorder in which a person believes that a friend, spouse or other close family member, has been replaced by an identical-looking impostor.

- Placed in the ISU - required 1:1 supervision

Case Study C – 17-year-old female

- Social services involvement with family due to mother's alcohol abuse and domestic violence.
- Admitted to hospital, aged 2, with a fractured arm and other injuries.
- Mother and mother's partner charged with Grievous Bodily Harm and cruelty.
- Three older sisters all made disclosures of sexual abuse by mother's partner
- Children placed in foster care.
- Stable 13-year placement broke down when knowledge of sexual abuse became public.
- Began staying out late, defiance, alcohol and substance misuse.
- Non compliance and abuse of foster mother became so extreme that foster placement broke down totally.
- A 9-month period of chaos followed – 13 short-term placements.
- Absconding, abusing alcohol, solvents and other substances.
- Sexual activities with a number of males - pregnant – abortion (The abortion caused a lot of anguish later as she considered she had murdered her unborn baby).
- Frequent and serious self harming – deep cuts to arms, overdosing on tablets, swallowed batteries.
- Admitted to psychiatric unit. Thrown out because of her violent behaviour.
- Placed in the ISU.

So we have here a picture of the kind of children placed in the ISU – children no one else wanted to work with⁴.

Concern had been expressed for some time at the over-representation of *looked after* children in the criminal justice system and the rates of police call-outs to residential units for behaviour and disputes which outside the care setting would not normally attract police attention⁵. Restorative justice approaches had proven effective in a range of settings including the youth justice system⁶, in child welfare and in schools⁷. As concern grew at the over-representation of *looked after* children in the criminal justice system, consideration was given to the potential use of such approaches to address both criminal and challenging behaviour within children's residential care settings⁸.

The Northern Ireland findings that young people in Residential Child Care are disproportionately represented in the criminal justice arena are reflected throughout England and Wales^{9;10;11}. The Third Joint Inspector's Report on Arrangements to

⁴ For outcome of these Case Studies see Appendix 4

⁵ NACRO, 2003a, op cit.

⁶ Crawford, A and Newburn T, 2003, *Youth Offending and Implementing reform in youth justice*. Cullompton: Willan

⁷ Youth Justice Board, 2004, *Key elements of effective practice: Restorative Justice*. London: Youth Justice Board

⁸ Littlechild, B. and Sender, H, 2006, *Young people's residential units: restorative justice and relational conflict resolution*. *Childright*, (227) (Jun): 2-14

⁹ DfES, 2006a, op cit

¹⁰ NACRO, 2003a, op cit.

¹¹ NACRO, 2003b, *Youth Crime Briefing: Looked after children who offend: the Quality Protects Programme and Yots*. London: NACRO.

Safeguard Children, 2008¹², notes that *looked after* children are still more likely to enter the criminal justice system than other children. The Inspectors found that three per cent of all children enter the criminal justice system, but 10% of first time entrants are *looked after* children. In a sample of 226 children and young people in Youth Offending Team inspections, 17% in custody were *looked after* at the point of sentence. In surveys carried out in youth offender institutions 29% of boys and 44% of girls reported that they had been *looked after* at some point in their lives.

In the United States, children in out-of-home care settings are twice as likely to commit delinquent acts as those receiving in-home services, due to frequent disruptions of care. Group home settings are especially problematic and have the largest effect in terms of crossing over from welfare to justice because problem behaviours are exacerbated when youths are placed with other behaviourally challenged young people. In Los Angeles County, youths with at least one group home placement have two and one half times greater risk of delinquency compared to similar youths in foster care settings.

Offences committed by children in their own private dwellings are not usually reported to the police but dealt with by parents/guardians/carers. Offences committed by children in children's homes attract greater reporting¹³. The principle of the procedures outlined here is that "*looked after*" children in residential homes should be treated as far as crime resolution is concerned in a way that is similar to the resolution for offences in private dwellings.

Willmott¹⁴ demonstrates that using a restorative approach can divert children in care from the criminal justice system by ensuring that incidents are dealt with by staff in such a way that both wrongdoer and those affected reach a mutually agreed way forward without recourse to the police.

This reasoning was the rationale behind introducing 'restorative conferencing' into care homes in the UK early in 2003. This formal process is predicated on a model that usually involves

- both 'victim' and 'wrongdoer' meeting in the company of their immediate community (parents or carers) and anyone else directly affected by the incident,
- everyone present recounting their perspective on the situation and their feelings,
- everyone discussing what they need to do to move on as individuals and also how things can be put right.

This formal process can be highly effective. It does, however, require a commitment of time for preparation since the facilitator needs to meet with every participant individually beforehand and the meeting itself can be quite lengthy.

¹² Ofsted, 2008, *Safeguarding Children – the Third Joint Inspector's Report on Arrangements to Safeguard Children*, 2008, Ofsted, Alexandra House, 33 Kingsway, London WC2B 6SE ; T 08456 404040; enquiries@ofsted.gov.uk ; www.ofsted.gov.uk

¹³ NACRO 2003a op cit

¹⁴ Willmott, N, 2007, *A review of the use of restorative justice in children's residential care*. London: National Children's Bureau.

It is critical to have victim involvement¹⁵ and yet this is usually the most difficult part. Umbreit¹⁶ found that participation rates for victims (in restorative conferencing generally) range from 40% to 60% of those referred. Interestingly participation rates for victims go up when more time elapses between referral time and participation in cases involving personal injury (assault) but decrease when more time elapses in cases involving property (theft, vandalism)¹⁷.

Restorative approaches were first introduced by way of a pilot project in ISUs in Northern Ireland by Barnardos Children's Charity in April 2005¹⁸. As already indicated, ISUs deal with the most damaged and disturbed young people in residential care. Children in ISUs differ from children in 'general' care homes not only in that they are more damaged and more disturbed but also that many of them already have a history of serious offending on entry to the unit. Staff in the units can do little to prevent court appearances relating to these offences. Indeed many of these young people will have been remanded on bail to the children's home and staff have been particularly troubled about how to deal with breaches of bail. This is an area which required specialist training and the drafting of a protocol on the various procedures.

Where an incident occurs in a children's home and the wrongdoer(s) is/are resident and the victim(s) is/are fellow residents or staff, restorative justice may be suitable. Suitability will depend on the seriousness of the incident, the victims' opinion and the perpetrator's willingness to acknowledge responsibility. The Children's Home will determine if restorative justice is possible. It is not in general a police decision. If restorative justice does take place that in itself does not always preclude criminal justice proceedings.

A restorative approach is critical in dealing with bad behaviour within the unit in order to prevent these young people compounding their difficulties. The focus should be on the four Rs of Restorative Justice: repair, restore, reconcile and reintegrate the wrongdoers and victims to each other and to their shared community¹⁹.

When 'restorative conferencing' was introduced into residential care settings staff quickly discovered that the more formal process which was first adopted was less useful than they had hoped because most of the incidents they needed to address flared up quickly and needed immediate attention. The experiences of staff in using these processes has gradually led to a realisation that the approach requires a cultural shift in the way staff and young people interact on a day to day basis and that the benefits of using such an approach go far beyond the narrow remit of reducing potentially offending behaviour. They began to consider a range of less formal processes which would allow for an immediate response to incidents. Staff were

¹⁵ There is a curvilinear relationship for participation rates of victims and the seriousness of the offence, with participation rates lowest for less serious offences ("I can't be bothered") and for the most serious (fear of the offender or reliving the trauma in serious bodily harm cases) (Coates, R.B. & Gehm, J. 1985; Wyrick, P. & Costanzo, M. 1999).

¹⁶ Umbreit MS, Coates RB, Vos B. 2005. Victim offender mediation: evidence-based practice over three decades. In *The Handbook of Dispute Resolution*, ed. ML Moffitt, RC Bordone, pp. 455–70. San Francisco: Jossey-Bass,

¹⁷ Victim involvement in Youth Conferencing in Northern Ireland is exceptionally high – Attendance 74%; Participation 85%. See Appendix 1

¹⁸ Barnardos children's charity – www.barnardos.org.uk

¹⁹ Menkel-Meadow, C, 2001, *Restorative Justice: What is it and does it work?* Georgetown University Law Centre, Washington, DC. Email: meadow@law.georgetown.edu

mindful of the need to ensure that, whatever the approach, it must nevertheless be informed by the philosophy of restorative justice.

Staff I spoke to in ISUs while preparing this paper were keen to stress that Restorative Justice is just one of the strategies used to address offending by children in care. And, of course, they have a point here. Evidence based practice suggests that intervention is required at many levels in dealing with troubled and troublesome young people.

All staff had recently been trained in the use of Therapeutic Crisis Intervention (TCI) techniques. Therapeutic Crisis Intervention is a crisis management protocol developed by Cornell University for residential child care facilities. The purpose of the TCI protocol is to provide a crisis prevention and intervention model for residential child care facilities which will assist them in preventing crises from occurring, in de-escalating potential crises, in effectively managing acute crisis phases, in reducing potential and actual injury to children and staff, in learning constructive ways to handle stressful situations and in developing a learning circle within the organization. Many staff felt that this approach was the way forward.

Staff were also experienced in using cognitive behavioural approaches which are designed to assist young people in accepting rather than avoiding responsibility for their own behaviour.²⁰ The Sanctuary Model²¹ and the Social Pedagogy Models²² also play a role.

Staff in Residential Child Care settings need a range of flexible strategies for dealing with the day-to-day conflicts and challenges of living and working with young people 24/7. Almost any situation is potentially challenging²³. The young people will learn how to deal with conflict and anger from the way in which the staff handle these situations. The behaviour of the adults will teach the young people key lessons in life for when they are faced with challenging situations - in work settings, socially with friends and as parents themselves.

Restorative justice is best regarded as being supplemental rather than substitutive. If we are committed to the view that what we do must be in the best interests of the child(ren) then we must be eclectic in our approach. However, while accepting that Restorative Justice is just one of the strategies used, I believe that the restorative approach is not only beneficial in and of itself but has additional benefits in that it calls for a fundamental change in the culture within the residential sector which makes life in care less stressful for young people.

The key to dealing with all of these situations lies in keeping restorative values and principles in mind, remaining curious and open to the young person's perspective, needs and feelings in any of these situations whilst also encouraging him or her to take responsibility for finding ways forward that take on board the needs of all those who are affected by the situation.

It is important to note that, when I speak of restorative practices I am not simply talking about formal processes, such as restorative and family group conferences or family group decision making. Restorative practices cover a wide range of informal and formal approaches.

²⁰ This approach must focus on an integrative needs based programme designed to address all of the prevalent risk factors. Individual and practical approaches are needed to help young people deal with issues such as substance misuse, exclusion, family relationships or coping with stress. Family or parent strengthening approaches such as parent support groups help to promote relationships with significant others who may in turn become peer mentors. Partnership strategies look at the family as a whole and then plan appropriately targeted services in consultation with both referrers and families. Inclusive community strategies that are solution-focused help make vulnerable community members feel safer. Involving young people in empowering situations, activities and experiences help them assess their own strengths and limitations both individually and within groups. The development of social and life skills should, in the long run, help young people to gain employment and to become contributing members of society.

²¹ The Sanctuary Model is a comprehensive approach to developing a trauma-sensitive culture in which psychological and social trauma can be addressed and resolved.

²² This is an holistic approach towards children's experiential learning with head, heart, and hands.

²³ Welcoming young people or new staff into the setting; meeting with family; preparation for, and returning from visits; setting the group rules; getting out of bed in the morning; going to bed at night; behaviour at school; meal times and in-between snacks; rules around access and behaviour in the kitchen; television times and what to watch; access to telephones and private calls; conflict with other children in the home; with other 'local' children and between children and staff; activity negotiation; wanting to go out, without staff; control/access to money, clothes, etc; behaviour in transport / on journeys; when something in the home has been broken; when there is an accusation of theft; attempt at self-harm; use of drugs and/or alcohol.



Figure 1. Restorative Practices Continuum, Wachtel & McCold, 2003.

On a restorative practices continuum (Figure 1), the informal practices include affective statements that communicate people's feelings, as well as affective questions that cause people to reflect on how their behaviour has affected others.

Impromptu restorative conferences, groups and circles are somewhat more structured, but do not require the elaborate preparation needed for formal conferences. Moving from left to right on the continuum, as restorative practices become more formal, they involve more people, require more planning and time, and are more structured and complete. Although a formal restorative process might have dramatic impact, informal practices have a cumulative effect because they are part of everyday life. They are the building blocks of a restorative ethos. Informal practices have proven to be most effective in the ISUs.

The most critical function of restorative practices is restoring and building relationships. Because restorative processes foster the expression of affect or emotion, they also foster emotional bonds. Human relationships are best and healthiest when there is free expression of affect - or emotion - minimizing the negative, maximizing the positive, but allowing for free expression^{24,25,26}. Donald Nathanson adds that it is through the mutual exchange of expressed affect that we build community, creating the emotional bonds that tie us all together²⁷. Restorative practices such as conferences and circles provide a safe environment for people to express and exchange intense emotion.

Because the restorative concept has its roots in the field of criminal justice, we may erroneously assume that restorative practices are reactive, only to be used as a response to crime and wrongdoing. However, the free expression of emotion inherent in restorative practices not only restores, but also proactively builds new relationships and social capital. Social capital is defined as the connections among individuals²⁸ and the trust, mutual understanding, shared values and behaviours that bind us together and make cooperative action possible²⁹.

Circles may be used routinely to provide residents with opportunities to share their feelings, ideas and experiences, in order to establish relationships and social norms on

²⁴Tomkins, S. (1962). *Affect Imagery Consciousness*, Vol. I. New York: Springer.

²⁵Tomkins, S. (1963). *Affect Imagery Consciousness*, Vol. II. New York: Springer.

²⁶Tomkins, S. (1991). *Affect Imagery Consciousness*, Vol. III. New York: Springer.

²⁷Nathanson, D. (1998, August). *From empathy to community*. Paper presented to the First North American Conference on Conferencing, Minneapolis, MN. http://www.iirp.org/library/nacc/nacc_nat.html.

²⁸Putnam, Robert, 2001, *Bowling Alone: The Collapse and Revival of American Community*, Simon & Schuster, New York

²⁹Cohen, D., and Prusak, L. (2001). *In Good Company: How Social Capital Makes Organizations Work*. Boston, MA: Harvard Business School Press.

a non-crisis basis. When a problem does arise, the reaction of residents and care staff is likely to be more positive and cooperative.

McCold and Wachtel³⁰ say that the fundamental unifying hypothesis of restorative practices is disarmingly simple. Human beings are happier, more cooperative and productive, and more likely to make positive changes in their behaviour when those in positions of authority do things *with* them, rather than *to* them or *for* them. Their *Social Discipline Window* (Figure 2) demonstrates that the punitive and authoritarian *to* mode and the permissive and paternalistic *for* mode are not as effective as the restorative, participatory, engaging *with* mode.

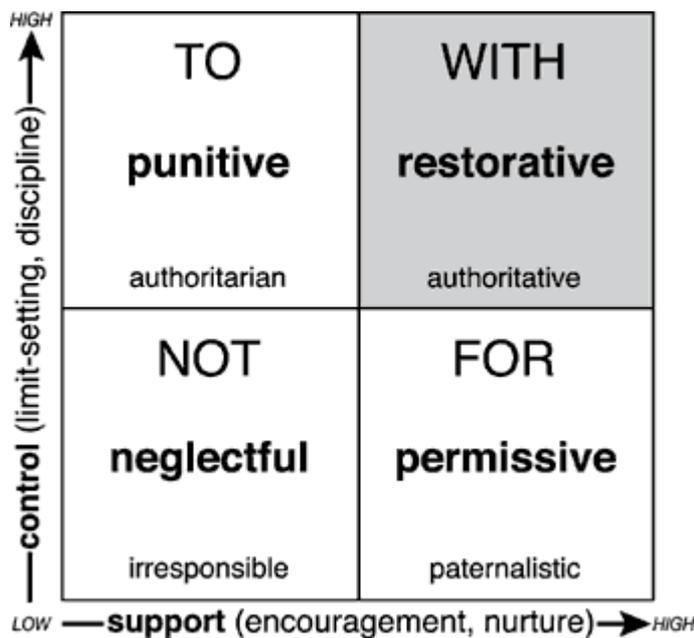


Figure 2 Social Discipline Window

The reason why the results are almost always better when authorities do things *with* people is based on the concept of “fair process”³¹. The central idea of fair process is that “...individuals are most likely to trust and cooperate freely with systems—whether they themselves win or lose by those systems—when fair process is observed.”

Pip, in *Great Expectations*³² remarks: “*In the little world in which children have their existence, there is nothing so finely perceived, and finely felt, as injustice*”.

Sen³³ notes: “*What moves us is not the realization that the world falls short of being completely just, which few of us expect, but that there are clearly remediable injustices around us which we want to eliminate. The idea of justice demands*

³⁰ McCold, Paul and Wachtel, Ted, 2003, *In Pursuit of Paradigm: A Theory of Restorative Justice*
Paper presented at the XIII World Congress of Criminology, 10-15 August 2003, Rio de Janeiro, Brazil.

³¹ Kim, W., and Mauborgne, R. (1997). Fair Process. *Harvard Business Review*, January 1.

³² Dickens, Charles, 1860-61, *Great Expectations*,

³³ Sen, Amartya, 2009, *The Idea of Justice*, Due for publication July 09

comparison of actual lives that people can lead, rather than a remote search for ideal institutions”.

The three principles of fair process are:

- *Engagement*—involving individuals in decisions that affect them by listening to their views and genuinely taking their opinions into account,
- *Explanation* —explaining the reasoning behind a decision to everyone who has been involved or who is affected by it,
- *Expectation clarity* —making sure that everyone clearly understands a decision and what is expected of them in the future.

Relationship Building

We noted above that it is necessary to have a variety of flexible strategies for reacting to conflicts and challenging situations as they occur. This applies not only in general but also within the restorative approach itself. Some of the most effective strategies, which draw on restorative principles and applications, are those used to preempt conflict in the first place. Hopkins³⁴ notes that the key skills underpinning a successful restorative approach include active listening, facilitating dialogue and problem-solving, listening to and expressing emotion and empowering others to take ownership of problems. One feature of a restorative response is to ensure that these values are modelled, and ideally passed on, so that young people learn a different way of dealing with challenges and conflict. It makes sense to ensure also that such values inform the day to day interactions amongst staff and young people, staff and staff and between the young people themselves. In this way not only is there congruence between ‘normal’ interactions and those used in the event of harm or conflict but also, more importantly, harm and conflict are less likely to occur in the first place.

Hopkins says that the key value of this approach lies in the creation of an ethos of respect, inclusion, accountability and taking responsibility, commitment to relationships, impartiality, being non-judgemental, collaboration, empowerment and emotional articulacy.

In practice this means giving attention to developing both a positive staff culture and a positive child culture, and one effective way of doing this is to introduce regular circle meetings. Sitting in a circle, listening to contributions from whoever is holding the talking piece, with no interruptions or participation ‘out of turn’, can be a remarkable experience for staff and young people alike.

However, this implies a level of empathy which may not exist amongst some children in ISUs. In normal circumstances empathy will be well developed by the time children are learning to walk. Unfortunately, some children fail to develop empathy and grow up lacking the ability to understand or ‘feel’ the pain of others. Failure to develop empathy is the result of childhood trauma which in turn is caused by neglect, physical abuse, sexual abuse or domestic violence. If the child’s early experience is fear and stress, especially if it is overwhelming and repeated, the brain does not develop fully. The brain of an abused child is significantly smaller than that of a non-

³⁴ Hopkins, B, 2008, *Restorative Approaches in Residential Child Care*, National Children’s Bureau

abused child – 20-30% smaller in the part governing emotions. In their first year, children already show signs of whether their reaction to the suffering of another is empathy, indifference or hostility. These reactions are shaped by parental reactions to suffering and it is very difficult to remould them in later life.

Sen³⁵, drawing on the work of Wittgenstein³⁶, writes “*Some children carry out odd acts of brutality to others – other children or animals – precisely because of their inability to appreciate adequately the nature and intensity of the pains of others. There is perhaps a strong connection between being anti social and the inability to think clearly*”.

Staff in ISUs have been reluctant to use Circles, or indeed restorative conferencing, because so many of their residents are lacking in empathy and find it impossible to put themselves in the shoes of the victim.

It is accepted that this can be a problem when circles are used reactively. However the same difficulties will not arise if circles are used proactively and routinely within the unit as part of decision-making processes. Circles can be used for decision making with the young people in the unit. Staff can use regular circles at the beginning and end of each day to check in and check out with how they are emotionally and share what they may need from colleagues that day in terms of understanding or support. Used in this way Circles can be an effective way of building the social capital referred to above.

Culture change

For some care homes, the adoption of a restorative approach is simply a question of giving a structure and a name to a range of strategies that have been used informally already. It provides a fresh opportunity to review the ethos and culture of the home and strive for consistency and best practice. For others the shift to using a restorative approach entails deep soul-searching and the courage to review the underpinning values that have informed the way that adults and young people have been relating in the past. Homes where behaviour management has been by a system of rewards and punishments – both indicative of the ‘doing things to’ approach identified by McCold and Wachtel³⁷ will need to take time to work towards a system based on mutual respect. In a restorative environment young people and indeed staff, are required to become accountable for the impact of their actions on other people, and to take responsibility for putting things right when mistakes are made.

The UK’s *National Minimum Standards for Children’s Homes, Standard 22*³⁸ on behaviour management calls on staff to encourage socially acceptable behaviour and to provide constructive responses to inappropriate behaviour. The standard encourages reparation (22.3), restitution (22.3), and states that any measures applied must be relevant to the incident, reasonable and carried out as contemporaneously as possible (22.4). Yet, seven years after the introduction of the Minimum Standards, it is

³⁵ Sen, Amartya, 2009 op cit

³⁶ Wittgenstein, Ludwig, 1921, *Tractatus Logico Philosophicus*

³⁷ Social Discipline Window, McCold, P and Wachtel, T, 2003, op cit

³⁸ See Appendix 2

still common to find a system of sanctions being used by many people working in care settings to encourage pro-social behaviour and deter anti-social behaviour.

Hopkins³⁹ says that, in a system promoting punishment and rewards, a behaviour, whether 'good' or 'bad', pro or anti-social, helpful or harmful, becomes associated with the negative or positive consequence administered by those in authority. It relies on others to order the environment. There is a separation of behaviour and responsibility. Behaviour is not associated with the impact it has had on others. Instead people can be cut off from the consequences of their behaviour by a reliance on others to keep order and make everything 'all right' by imposing punishment. Punishment then, cushions people from the negative impact of their actions and deprives them of the opportunity to develop empathy and compassion and to put things right. Rewards can sometimes deprive them of the opportunity of understanding that 'pro-social', helpful behaviour makes other people, for whom perhaps they care, happy. Beyond life in the children's home, appropriate behaviour, and better still, friendly, helpful, considerate behaviour, is rewarded by positive reactions and affirmation from those around us and from the 'feel-good' factor experienced by the doer of the good deed. The links between a deed and its impact on others should surely be made earlier rather than later, and can create opportunities for strengthening the bonds between young people and staff.

There is a further problem with the rewards and sanctions approach, particularly when working with children in ISUs. Empirical studies, with rare exceptions, tend to homogenize offenders and do not capture the offender who commits crime "for the thrill of it" and may not be deterred by either restorative justice or conventional criminal processes⁴⁰.

Let me give you some examples. I worked with a group of boys who were into serious joy-riding – stealing cars and driving them at high speed while performing all kinds of fancy stunts such as hand-break turns. Beaver explained how they were often "shitting themselves" with fear while being chased by the army or the police but the surge of adrenalin kept them going and made it all worthwhile. One night the army opened fire as they crashed through a road block and their driver was shot dead. The others managed to escape and when I interviewed them afterwards their only concern was that they did not have a replacement driver with the same level of skill. I worked hard with them and believed I had made a break through when I got Beaver to agree to come to court and to plead guilty to his many offences. I had the agreement of the judge, police and probation as to how Beaver could receive the support and treatment he needed. Beaver failed to turn up in court. When I spoke to him in the Young Offenders Centre later he explained that he was within yards of court when he spotted a car with the keys in the ignition. He jumped in and drove it off. He said he just *couldn't* walk past it. Buster was another member of that group. I was once sitting having lunch with the Director of the Juvenile Justice Centre (then known as Lisnevin) when I got a message that 'Buster' would like to talk to me. When I finished lunch I went looking for him only to discover that he had got into an altercation which ended with him being restrained by four members of staff and subsequently transferred to a 'quiet' room (effectively a padded cell). I was advised

³⁹ Hopkins, B, 2008, op cit

⁴⁰ Katz, J, 1990, *Seductions of Crime*, New York: Basic Books

that he was crazy at the moment and that it wasn't safe for me to talk to him. I convinced the staff that I would be OK and sat for over an hour with Buster with the cell door lying open while he talked about the "good old days" when he had been on my programme. It was sad that the only good memories this 16-year-old had were of the time spent on that programme.

These boys, in common with many severely damaged children, suffered abuse from early childhood. For them punishment was the anticipated response. Beaver and Sean's father used exceedingly harsh discipline in his efforts to control them. Punishment included being beaten with the buckle end of a heavy leather belt and/or being locked in the cupboard under the stairs. The boys knew what they were in for when their father caught up with them but they were not deterred.

Kohn⁴¹ notes that, even for less severely disturbed children, the currency of punishments and rewards can become increasingly worthless and less and less effective. As young people get older, the 'carrots' offered for good behaviour when they were younger become less and less valued, but the intrinsic motivation to behave in a considerate manner has never been developed.

Restorative justice hopes to harness the commission of wrongful acts to the making of new opportunities for personal, communal and societal growth and transformation through the empowerment of both victims and wrongdoers in direct and authentic dialogue and recognition. It also helps practically to reduce recidivism and reintegrate wrongdoers into more positive roles and relationships.

Using restorative approaches to address harmful behaviours, and also to develop pro-social communities in the first place by using regular circles, can encourage the development of an intrinsic morality, a sense of community and civic spirit, empathy and, very importantly, a sense of belonging and connectedness. This latter is vital in ensuring that the young people in care develop pro-social skills and attitudes.

A restorative approach in a care setting shifts the emphasis from managing behaviour to focussing on the building, nurturing and repairing of relationships. Behaviour management policies tend to focus only on the behaviour of young people and usually include reference to sanctions in the event of rule breaking. These sanctions have the potential to harm the crucial adult-child relationship. A restorative care home needs, in contrast, a *relationship* management policy, which considers the needs and responsibilities of every member of that community towards each other.

In order to engage in a restorative approach to conflict and challenging behaviour in care settings, adults and young people alike need to develop: a willingness to listen to others' perspectives on a situation and suspend the notion that there is only one way of looking at something^{42;43}; an ability to listen to the feelings and needs behind others' words, especially if these words are offensive, hurtful or accusatory⁴⁴; an ability to be in touch with one's own feelings and needs so that these can be

⁴¹ Kohn, A, 1999 *Punished By Rewards*. New York: Houghton Mifflin.

⁴² Crawley, J, 1995, *Training Manual in Community Mediation Skills*. Bristol: Mediation UK.

⁴³ Stone, D., Patton, B., & Heen, S, 1999, *Difficult Conversations*. New York: Michael Joseph.

⁴⁴ Rosenberg, M, 1999, *Nonviolent Communication*. California: PuddleDancer Press.

expressed in a way that gets heard and understood by others⁴⁵; and a commitment to giving everyone a chance to share their story⁴⁶. Many of these skills are those identified by Clough et al⁴⁷ as key to best practice in Residential Child Care. The contribution that restorative training makes is to indicate how these key values, principles and skills can be applied in a consistent and congruent way even when staff find themselves faced with difficult and challenging situations.

The principle of good (corporate) parenting is to balance a high level of care, support and nurture with a high level of control, discipline and boundary setting⁴⁸. The difficult part is getting the balance right so that children and young people are able to make a positive contribution within the home and later within society. In a restorative environment boundaries are negotiated collaboratively, and everyone is encouraged to take responsibility for the impact of their actions on each other, thus developing mutual concern and support.

Implementation

The pilot in the Glenmona ISU was established through a partnership between Barnardos, the Youth Justice Agency (Community Services), the North and West Belfast Health and Social Services Trust and Glenmona Resource Centre.

The partnership developed through initial discussions between Barnardos Family Group Conferencing Service (FGCS) and staff from the Youth Justice Agency Community Services. The Youth Justice staff had become aware of Barnardos FGCS work in the Southern Health and Social Services Board area and Restorative Practices in Education. The development of applying restorative practices with *looked after* children, at risk of becoming criminalised in residential homes in England, was of particular interest.

The aim of the pilot was to reduce the number of young people from the Glenmona ISU transferring to the Juvenile Justice Centre and to prevent *looked after* children becoming criminalised for acting out behaviours.

Restorative values and principles imply a certain leadership style. The key to effective implementation of a restorative approach in care settings is to have the senior managers on board, fully trained and using these skills not only with the young people but also with staff. Two-day training programmes were developed and delivered to everyone who had daily and direct contact with the children - all management, residential and ancillary staff, including the cook.

From the beginning Barnardos attempted to encourage staff and management to see, that unlike other training programmes, the restorative approach was as much about changing attitudes and cultures as about the theory and practicalities within the training. They also stressed the importance of the adult carers reflecting on their own

⁴⁵ Rosenberg, M, 1999 *ibid*

⁴⁶ Pranis, K, 2001, *Telling our stories and changing our lives. The Texas Mediator*, 16, 1-4.

⁴⁷ Clough et al (2006)

⁴⁸ Wachtel, T. & McCold, P, 2001, *Restorative Justice in Everyday Life*. In H. Strang & J. Braithwaite (Eds.), *Restorative Justice and Civil Society* (pp. 114-129). Cambridge: Cambridge University Press.

attitudes/perceptions while reflecting on practice. The introduction of restorative practices was seen as a means of building restorative communities where good relationships were of primary importance.

Staff were advised that the model was not about holding formal conferences after serious conflict but rather more about the adults responsible for the children using restorative approaches to avoid such conflicts in the first instance. In the first 6 months in the ISU there was only one formal conference for a rather serious assault on a staff member. Less formal “in-house conferences” were more common. These could be for fairly serious offences, including criminal damage and assault. Importantly these processes, whether they led to criminal charges or not, were seen as a means which allowed the wrongdoer to take responsibility, make reparation and allow both them and the victim to be able to live and work together within the unit, after the event.

Thus training involved developing a range of flexible skills to use in a variety of situations, from informal and spontaneous, to formal, involving individual preparation with all those involved. Staff and young people were encouraged to be involved in looking at how new systems and approaches can be developed so that everyone feels safe and understands the new approach. The change process itself needs to be informed with the restorative principle of working *with* and not doing *to*. Regular reviews of progress need to be made as well as creating opportunities to refresh skills and adapt approaches to suit the needs of each particular situation whilst remaining true to the essential values of restorative philosophy.

The initial training of staff must be seen only as the first step and can be likened to planting the first seeds. Seeds need watering, and tender shoots need nurturing. After the training Barnardos provided on site support and mentoring for up to two days per week, as a means of modelling and encouraging the staff in the use of the approaches.

When on-site support finished, Barnardos continued to support the implementation of the model through the Manager’s Mentoring Group, where difficulties and practice issues can be discussed and additional support offered when and where necessary.

Does the Restorative Approach prevent offending/reoffending?

It is perhaps helpful to consider first what *doesn’t* work. Overall it appears that:

- custody as a deterrent only works when the person feels they have something to lose. Many young people, particularly those in ISUs, already feel they have lost everything;
- naming and shaming is not effective when the young person readily accepts and aspires to being different and deviant. In short, labelling becomes a positive group value within their own culture;
- isolation from communities hinders re-integration of the young person within their home, school and local community;
- young people who receive punitive sentences like custody, feel that society owes them a favour and subsequently are more likely to re-offend ;
- even extreme forms of punishment do not work as exemplified by the use of paramilitary punishments in Northern Ireland. Young people often saw “knee-

capping” as a form of initiation which meant that they could now call themselves *real* hoods (serious offenders).

The majority of the evidence on the interventions which do work is based on practice and research from Canada and the USA. While these can provide a broad understanding of best practice, the models of understanding must be adapted to take into account both the cultural and historical dimensions which are unique to each country. Juvenile offending is a controversial and politically charged issue. Youth crime is often portrayed as extreme and violent and impacting on the elderly and other vulnerable members of the community. In fact, young people are more likely to be the victims of crime than any other age group.

Restorative approaches provide strategies that accord with recent studies of what works best in care settings⁴⁹. Early reports from those homes using restorative approaches suggest benefits to both staff and young people^{50;51}. They have also been consistently found to address the agendas of the three UK government policy papers - ‘*Every Child Matters*’⁵², ‘*Youth Matters*’⁵³ and ‘*Care Matters*’⁵⁴.

Recent research suggests that restorative theories that pertain to criminal justice settings may need to be re-evaluated in the context of care settings⁵⁵. Each context is different, with different needs and different challenges. The *Looked After Children* sector is evolving its own version of the restorative approach. ISUs require further adaptation because they are dealing with the most damaged members of society.

In her report on the uses of Restorative Justice in Residential Child Care Natasha Willmott⁵⁶ reports benefits to both staff and young people when restorative approaches are used in conflicts and disagreements. Many of the contacts described restorative justice as being ‘empowering’ for all parties involved, helping all sides in a conflict or dispute to have their say on what had happened and giving them a stake in how the situation might best be resolved and reparation made.

Willmott notes that staff feel a sense of empowerment in having a wider range of options when dealing with challenging behaviour. She also noted that young people’s behaviour was beginning to change. Young people were starting to take more responsibility for their own behaviour and, in some cases, using the principles of restorative justice to sort out disagreements with other residents or staff.

In their review of research showing what works best in children’s homes, Clough, Bullock and Ward⁵⁷ report that the quality of the relationship between staff and

⁴⁹ Clough, R., Bullock, R., & Ward, A. , 2006, *What works in Residential Child Care*. London: National Children’s Bureau.

⁵⁰ Littlechild, B (2003) *An evaluation of the implementation of a restorative justice approach in a residential unit for young people in Hertfordshire: Final report*. Hatfield: University of Hertfordshire, Dept of Health and Social Care

⁵¹ Willmott, N, 2007, op cit

⁵² DfES, 2003, *Every Child Matters*, HMSO.

⁵³ DfES, 2006b, *Youth Matters: The Next Steps*, HMSO.

⁵⁴ Department for Education and Skills (2006) *Care matters: transforming the lives of children and young people in care*. London: Department for Education and Skills.

⁵⁵ Willmott, N, 2007, op cit

⁵⁶ Willmott, N, 2007, op cit

⁵⁷ Clough, Bullock and Ward, 2006, op cit

children and also between the children themselves is a key factor in successful practice in both fostering and Residential Child Care.

Hart⁵⁸, manager of a children's home in Hertfordshire and an experienced restorative practitioner with *looked after* children, emphasises the positive impact on the young people and contribution to relationships. He found that staff and children listened to each other and this led to a growth of mutual respect.

One problem with residential care is that the only people in residence are the children. The system is reasonably inflexible due to staff rotas and shifts. Staff work their shift and then go home to their own lives. It is inevitable that there will be inconsistencies in approach. Restorative approaches can help address these shortcomings since they ensure a forum for children to voice their worries and concerns and feel heard.

Clough⁵⁹, drawing on a summary of research made by Parker⁶⁰, says that the daily life of children in care must revolve around their best interests. It must be child-orientated rather than institution-orientated. A restorative approach has enabled many staff to see the children as frightened children in crisis and not destructive trouble makers, thereby reducing the number of police call outs. Staff in the ISU report that restorative approaches enable them to work longer with children in crisis, who, in the past, would have been transferred to secure care or to the JJC. They are more ready to listen and agree ways forward with the children.

Berridge⁶¹ says that the most effective staff have an informal approach with young people, being easy to talk to, listening to young people with respect, being frank and challenging and yet not 'pushy' or 'nagging'. Restorative approaches do not have the monopoly in this way of interacting with children but they can provide a structure and a confidence in dealing with issues – especially when they become more challenging.

By giving staff a structure and increased confidence in dealing with challenging situations morale amongst the team is raised. This is critical since low morale can lead to an increase in staff turnover in an environment where stability and consistency are vital.

Cooper⁶² says that turnover in the children's workforce is especially important compared to other sectors. This issue has a strong bearing on continuity of care. Children and young people are particularly vulnerable to changes in relationships built up with adults.

Hart indicates that using a restorative approach in challenging situations has changed the way staff respond, has helped them to feel listened to and, in some cases, to be more honest about their own contribution to a conflict – an honesty which has brought about mutually acceptable outcomes and increased trust.

⁵⁸ Hart, V, 2006, Just Care: RJ at Stanfield Home, Restorative Justice Consortium (2006) *Resolution 21*. Winter 2006: 2-3.

⁵⁹ Clough, R, 2000, *The Practice of Residential Work*. Basingstoke: Macmillan.

⁶⁰ Parker, R, 1988, *Children*. In I. Sinclair (Ed.), *Residential Care: The research reviewed*. London: HMSO.

⁶¹ Berridge, D, 2002, *Residential Care*. In D. McNeish, T. Newman & H. Roberts (Eds.), *What Works for Children?* Buckingham: Open University Press.

⁶² Cooper, A, 2005, *The Children's Workforce in England: A review of the evidence*. London: DfES.

This is more likely to happen if restorative approaches are used with staff to de-brief restraints, violent incidents, or just difficult shifts. They feel their actions are not being questioned, but that they are being given the opportunity to be listened to and talk through their feelings. The outcome has been that staff are more ready to accept that they may have been antagonistic or confrontational in their responses to the children, thereby escalating the incident. They are more willing to talk to the children and apologise if appropriate.

Menkel-Meadow⁶³ concluded, after extensive research, that restorative justice has reduced recidivism and reoffense rates in many programs (with both juveniles and adults) that restorative justice processes, with more direct and responsive communication and negotiation, can generate new norms that are more reflective of changed circumstances or enhanced human understanding; and that even merely observing a restorative justice process or ritual can have social learning and transformative effects on how human beings conceive of their rights and responsibilities in a modern and diverse world.

How effective has the use of restorative conferencing in ISUs been in Northern Ireland?

The initial pilot project commenced in April 2005. In their interim evaluation⁶⁴ of the first six months, Barnardos noted that only two young people had been transferred to the JJC and this was for offences committed prior to admission to the ISU. 66% of recorded incidents were dealt with by way of restorative practices.

The success of the project within the ISU, where there was a marked decrease in criminality within the first year saw the funders (the Northern Ireland Office) support the roll out of the training throughout the whole campus.

Since the completion of the ISU project, Barnardos has trained and supported staff in this model in a total of 8 Care Units within the Eastern Health Board with a further 4 Units planned for this coming year.

While there is no empirical evidence to suggest that the introduction of restorative practices has been key to the lessening of criminal charges being brought against *looked after* children for what can be described as *acting out* behaviours, it seems clear that it has contributed to this. In-house monitoring and evaluation demonstrate this as well, as we will see below.

In September 2006, the Chief Social Services Officer for Northern Ireland drew attention to the significant proportion of children being held in the Juvenile Justice Centre (JJC) who were also *looked after* children⁶⁵. He asked for a progress report on the ISU project. In May 2008 he wrote again to the various Health and Social Services Trusts and Boards noting that things had improved. At that point he said that analysis by the Eastern Health and Social Services Board (EHSSB), Department of

⁶³ Menkel-Meadow, C, 2001, op cit

⁶⁴ Interim evaluation of Glenmona ISU RP Pilot, April 2005 – October 2005, “The first 6 months”, Barnardos Family Group Conference Service, Barnardos, Northern Ireland

⁶⁵ Personal communication to Boards and Trusts

Health, Social Services and Public Safety (DHSSPS) and the Northern Ireland Office (NIO), as well as the Criminal Justice Inspectorate for Northern Ireland (CJINI) inspection of the JJC supported the view that there had been some constructive change in the interim. He noted that the age profile of *looked after* children in the JJC had risen significantly, which seemed to indicate that arrangements for working with children under the age of 15 who displayed challenging and offending behaviour while in residential care was being more effective. At the same time he expressed concern that the number of *looked after* children in the JJC remained proportionately high and pointed out that not all of them met the criteria of being serious and/or seriously persistent offenders.

In July 2009, while preparing this paper, I met with the Deputy Director of the JJC and asked for a breakdown of the numbers of *looked after* children on admission. During 2004, 2005 and 2006, children who had been in care made up 35% of admissions to the Juvenile Justice Centre. 2007 saw a marked drop in admissions from care to 29%. In 2008 this had dropped to 19%. It is not possible to say that the drop is entirely due to the introduction of restorative approaches. However, it is clear that the drop coincides with the uptake of restorative approaches in ISUs. The Deputy Director also stressed that the majority of *looked after* admissions were now coming from residential homes which had not yet introduced restorative practices.

A focus on the Intensive Support Units themselves highlights a number of positive outcomes and measures of success.

Of prime importance is the quality of relationships between staff members and young people. This can be hard to quantify but is supported by verbal reports from all young people and staff members. It is these quality relationships that allow for the successful implementation of interventions which can be more readily quantified.

Quantitative measures of success are highlighted in regular monitoring reports as reductions in negatives. There are lower levels of aggression, fewer physical restraints, less criminal activity, less police involvement, fewer unauthorised absences, a drop in alcohol and substance misuse and a drop in self-harming behaviours.

Young people coming to the end of placement have all stated that they would like to stay in the unit for a longer period. They report that they feel safe and cared for and are displaying less challenging behaviour. This creates something of a dilemma for staff. These settled young people may no longer be displaying behaviours which meet the criteria for admission to an ISU, and therefore should be discharged. However, if the timing is not right, behaviour can quickly deteriorate without the additional support available from the ISU. Staff noted, in at least four cases, when a move from the ISU was imminent, that there was what appeared to be a deliberate deterioration in behaviours to maintain their placement.

The staff team has remained highly motivated and committed throughout and all have reported their desire to continue working in the intensive support model.

As well as the above mentioned decrease in negatives, there have also been increases in positives. Young people are reporting that they feel safe and cared for and are

displaying much more settled and appropriate behaviours.

Finally, attendance and attainment have increased for all young people involved in education.

Positives extend to staff also in that there has been a reduction in staff turn-over and a marked reduction in the number of staff off on long-term sick leave.

Summary

Let me try to summarise what I have been saying.

A child is at greater risk of obtaining a criminal record following entry to the care system than a child living at home with the support of his/her family. One of the greatest risk indicators is living in residential care and the collective influence of living with other troubled young people. The most troubled and troublesome are those placed in Intensive Support Units.

The threat of custody is no deterrent. Custody isolates young people from their communities and hinders re-integration. This increases the likelihood of reoffending. Naming and shaming is not effective – it becomes a positive group value. Even extreme forms of punishment do not work, as exemplified by the use of paramilitary punishments in Northern Ireland.

On the other hand we have seen that the use of a restorative approach can divert children in care from the criminal justice system by ensuring that incidents are dealt with by staff in such a way that both wrongdoer and those affected reach a mutually agreed way forward without recourse to the police.

The introduction of restorative practices is not just a matter of learning new skills. It is also about changing attitudes and cultures - the creation of an ethos of respect, inclusion, accountability and the taking of responsibility. In a restorative environment young people, and indeed staff, are required to become accountable for the impact of their actions on other people, and to take responsibility for putting things right when mistakes are made. A restorative approach shifts the emphasis from managing behaviour to focussing on the building, nurturing and repairing of relationships.

While formal restorative processes are important and can have dramatic impact, informal practices have a cumulative effect because they are part of everyday life. They are the building blocks of a restorative ethos.

Since this method was introduced into Glenmona's ISU there has been a drop in the level of criminality and a marked drop in the number of *looked after* children transferring to the Juvenile Justice Centre. There are lower levels of aggression, fewer physical restraints, less criminal activity, less police involvement, fewer unauthorised absences, a drop in alcohol and substance misuse and a drop in self-harming behaviours. Young people report that they feel safe and cared for and are displaying less challenging behaviour. Attendance and attainment have increased for all young people involved in education.

The staff team are highly motivated and committed and all have reported their desire to continue working in the intensive support model. There has been a reduction in staff turn-over and a marked reduction in the number of staff off on long-term sick leave.

Conclusion

In the late 70s a dominant theory of ‘nothing works’⁶⁶ was developed in dealing with troubled young people. This view gained substantial support in both Britain and the USA and led to a punitive approach by government. Evidence-based research^{67;68} challenges that pessimistic view and suggests that there are common themes, risk factors and models of intervention which, when combined, do make an impact on the level of risky behaviour, offending and recidivism of young people. The most recent evidence from Canada, USA and Australia suggests that interventions that include all aspects of a young person’s life, and are restorative in nature, have the most positive impact on supporting young people.

Let me demonstrate this with some statistics from Northern Ireland.

61.0% of children discharged from custody in Northern Ireland in 2006 re-offended on at least one occasion within 6 months. 25.8% of those given a Youth Conference Order reoffended within six months. 34.7% of those given other non-custodial disposals reoffended within six months⁶⁹.

Our hope is that restorative and reparative philosophies and practices will replace punitive forms of social control with more optimistic ideas about human empowerment, understanding, problem solving, and reconciliation.

Some people see restorative practices as a soft option, as letting the young person off the hook. In my 33 years on the Bench I have heard countless young people ask to be placed in custody. These tough guys won’t admit to being afraid to face up to what they have done and to face their victim. But they are afraid. They are afraid to face their victim in some kind of open forum where strangers ask “why?” and try to find the answer by raking over the embers of their life. They would rather “take their porridge” with no questions asked. One young man in Glenmona wrote a poem which sums this up very well.

⁶⁶ Martinson, Robert, 1974: *What Works? - Questions and Answers about Prison Reform*.

⁶⁷ Farrington, D, 2002, *Developmental Criminology and Risk Focused Prevention* in Maguire et al. The Oxford Handbook of Criminology.

⁶⁸ Utting, Vennard et al., 2000, *What Works with Young Offenders in the Community*, Barnardo’s.

⁶⁹ See Appendix 4

What scares me about a restorative conference

In Court you just get dealt with.
At a Conference you have to
face up to, and talk about what you done.

The last thing I want to do
is to talk about things.
It would melt my head.
It would bring everything up!

I know that court is just running away
from facing up to the consequences
but it's easier in Court
because you don't have to face up to
what you've done, and who you've hurt.

I've done things to people
and they don't deserve it.
A Restorative Conference is probably
the best solution,
But it scares ME!

We might turn to the words of another poet, Alfred Lord Tennyson⁷⁰, to encourage young people who find themselves in this situation.

“Come my friends, 'tis not too late
to seek a better world ...”

When we are talking about juvenile justice a better world is one where restorative justices are the norm.

⁷⁰ Tennyson, Alfred, Lord, 1833, *Ulysses*.

Appendix 1: Victim involvement in Youth Conferencing in Northern Ireland

The Youth Conferencing Service in Northern Ireland has a target of 60% victim *attendance* i.e. victim (or their representative) *present* either in the room, behind the 2 way mirror or via telephone link. For the three month period Mar - May, 2009, this has been 74%.

The Youth Conferencing Service in Northern Ireland has target of 70% victim *participation* i.e. victim *involvement* in the process, which includes their views/ requests in the actual Youth Conference. For the three month period Mar - May, 2009, this has been 85%.

Appendix 2: The UK's *National Minimum Standards for Children's Homes*, April, 2002

STANDARD 22

22.1 Staff respond positively to acceptable behaviour, and where the behaviour of children is regarded as unacceptable by staff, it is responded to by constructive, acceptable and known disciplinary measures approved by the registered person.

22.2 The registered person has a clear written policy, procedures and guidance for staff based on a code of conduct setting out the control, disciplinary and restraint measures permitted and emphasising the need to reinforce positive messages to children for the achievement of acceptable behaviour.

22.3 Measures of control and disciplinary measures are based on establishing positive relationships with children which are designed to help the child. Such measures are fair and consistently applied. They also encourage reparation and restitution and reduce the likelihood of negative behaviour becoming the focus of attention and subsequent disruption to the placement.

22.4 The consequences of unacceptable behaviour are clear to staff and children and any measures applied are relevant to the incident, reasonable and carried out as contemporaneously as possible.

22.5 Any measures taken to respond to unacceptable behaviour are appropriate to the age, understanding and individual needs of the child, for example taking into account that unacceptable or challenging behaviour may be the result of illness, bullying, certain disabilities such as autism, or communication difficulties.

22.6 Sanctions and physical restraint are not excessive or unreasonable.

22.7 Physical restraint is only used to prevent likely injury to the child concerned or to others, or likely serious damage to property. Restraint is not used as a punishment, as a means to enforce compliance with instructions, or in response to challenging behaviour which does not give rise to reasonable expectation of injury to someone or serious damage to property. (For schools which are children's homes, this does not prevent the use of restraint in circumstances permitted by s550A of the Education Act 1996.)

Appendix 3: Restorative Approaches

A Restorative Enquiry, the starting point for all restorative processes, involves active non-judgmental listening. The process can be used with one person to help them reflect on a situation and find ways forward for themselves. It is also useful before and during face-to-face meetings. There are five key questions which need to be asked:

What has happened?

Who has been affected?

What needs to be done to repair the damage caused?

How can we involve everyone who has been affected in finding a way forward?

How can everyone do things differently in the future?

The way in which these questions are framed can be adapted to suit the young people concerned and the situation – what's up? what's the problem? what's going on? – but whatever the words used it is critical that the questioner remains impartial, calm and non-judgemental, so that the tone of voice, facial expression and other non-verbal signs do not threaten or stifle dialogue.

This is in marked contrast to a punitive mindset:

I need to get to the bottom of this.

I must find out who is to blame.

I must deter, if necessary punish, the culprits so that they will not commit the same offence again.

The ‘restorative chat’ – addressing conflict through dialogue

At times staff find themselves directly in conflict with young people and these can be the most difficult situations in which to draw on restorative skills since key factors such as the neutrality and impartiality of a facilitator are difficult to retain in the heat of the moment. Nevertheless the five questions can again serve as the basis for effective conflict management. The intention of an exchange in such circumstances is to de-escalate the situation and seek a mutually acceptable outcome wherever possible.

In such circumstances both sides need the chance to explain how they see the situation, voice their feelings and their needs and then enter into a negotiation as to how best to ensure that these needs are met. With practice staff can use the restorative structure to help them stay in control of their emotions. The Restorative Enquiry frame can create the necessary time and space for a dialogue that allows both sides to calm down.

Embedded in this exchange are elements of what are sometimes known as ‘I’ statements, a form of dialogue recommended by many conflict management and anger management programmes (AVP 1986⁷¹; Crawley 1995⁷²; Rosenberg 1999⁷³). In essence this is a way of communicating with another person in such a way that both people feel heard, neither feels attacked or threatened, and both feel involved in negotiating some form of resolution to the presenting problem. The focus is on ‘I’ rather than you, describing and opening up from a personal point of view, rather than imputing and closing down from a superior position. The key lies in restricting one’s message to an observation about a given situation free from judgement or blame, honestly sharing one’s emotions and needs in that situation and then inviting a response.

Mediation can be a useful tool when both X and Y believe the other person is the cause of the problem. The mediator remains impartial, and helps both sides to consider the problem as a shared one that needs a joint solution. Residents can be trained to act as peer mediators.

Mediation/Mini-conference

Residential Child Care staff are often required to intervene and help young people in conflict resolve their differences. Often, of course, conflicts can flare up between staff and young people and a third party is needed to help resolve the situation. Restorative enquiry with all those involved prior to a face to face meeting is desirable in such circumstances but not always practical. However since, in the heat of the moment, our capacity for rational thought is diminished it is recommended that some kind of stalling strategies are used before embarking on a mediation process – respectfully inviting those involved to take some minutes to calm down, suggesting moving to a different room ... anything that buys time to allow people to gain some control of their thoughts and feelings. These strategies also allow the potential mediator time to gather their thoughts and get centred, ready to facilitate in such a way that everyone feels safe.

Once all sides are ready to engage the following structure informs the mediation process:

- Stage 1 - acknowledgement of the courage to choose to try and resolve the problem together; explanation of the process and discussion about key ground rules;
- Stage 2 – restorative enquiry, inviting all sides to tell their stories, express their thoughts and their feelings when the situation occurred and now;
- Stage 3 – invitation to all involved to express their needs to feel better and move on;
- Stage 4 – problem solving – how can all the needs expressed be met?
- Stage 5 – drawing up a written or verbal contract and agreeing to review things in a day or so

More often than not conflicts flare up in residential child care settings between people who blame each other for what has gone wrong. The framework for mediation described above is not predicated on there being an identified wrongdoer and is therefore flexible.

⁷¹ AVP, 1986, *Alternatives to Violence Project Basic Course Manual*. New York: Alternatives to Violence Project.

⁷² Crawley, J, 1995, op cit

⁷³ Rosenberg, M, 1999 op cit

In cases of clear cut and acknowledged wrongdoing Stage 3 can involve an exploration of what the victim needs for the harm done to them to be put right and what the wrongdoer can do to repair the harm they have caused. Nevertheless the process allows for all those involved and present to be accountable and to play a part in the healing, as the following case study illustrates.

The process described above can actually take minutes in relatively low-level conflicts – arguments over television channels, thoughtless or offensive remarks, jokes that have backfired and so on. Dealt with swiftly and consistently such low-level conflicts can be nipped in the bud before they have the chance to escalate and cause divisions amongst the residents.

Victim/Wrongdoer mediation - useful when someone acknowledges they have caused harm⁷⁴ to another person and both sides agree to see how the matter can be put right, with the help of an impartial mediator.

Circles can be used for team building and problem solving and enable a group to get to know each other and develop mutual respect, trust and concern.

Restorative Conferences

A conference is the name given to a more formal gathering, with all those involved sitting in a circle, to address more serious wrongdoing and even offending behaviour. In school and youth justice settings such conferences conventionally involve not only the young people involved but also their parents, guardians or carers. In Residential Child Care settings this may not be appropriate or possible but often the place of the prime carer would be taken by the young person's key worker. The structure of the conference is essentially the same as the mediation process described above although Stage 3 would certainly focus on the repair of the harm caused. Nevertheless the conference process allows for all those involved and present to be accountable and to play a part in the healing. Examples of situations where a formal conference would be used would be in situations of persistent bullying, theft, assault, property damage and substance misuse.

A Family Group Conference is rarely used for children in Intensive Support Units. However, it can be useful when a plan is needed to provide support to a young person, or their family in making changes. Family Group Conferences are convened in neutral venues by independent co-coordinators. The meeting involves three stages. It starts with professionals sharing information with family members and providing consultancy on options for future help. Then the family members have private time on their own to discuss and deliberate, and come up with a plan for a way forward to help the child's situation. At the end of the meeting key professionals return with the coordinator to hear and record the family plan and make arrangements for monitoring and review. This process can be preceded by a restorative element where appropriate.

Appendix 4:

Outcome of Case Studies

Case Study A – 15-year-old male

- 100% school attendance (on campus) between September 2008- June 2009
- sat G.C.S.E exams in June 2009
- stated he is happiest he has ever been
- pleasant and co-operative around unit with other young people and staff
- no psychotic episodes since July 2008
- marked decrease in violence
- engages with adolescent psychiatrist

⁷⁴ The word "harm" has a specific meaning in restorative practices and refers to the pain, hurt and distress, as well as the physical and material damage, that can be caused by the actions of a person or people either intentionally or unintentionally.

- engages well and enthusiastically with ex-drug addict mentor (as per Youth Justice Order for possession of cannabis)
- responds well to restorative practice and this in turn has strengthened his relationships with staff
- alcohol and cannabis addiction remains a problem – has agreed to undergo treatment.

Case Study B – 16-year old male

- polite, co-operative and pleasant within the unit setting
- excellent relationship with staff
- did not abscond from the unit or whilst on unit trips
- no young people on site or in community experienced any harm as a result of young person's placement in the ISU.
- level of obsessive compulsive behaviour greatly reduced- going from 9 showers a day to 1; asking 50 times an hour if he was clean reduced to once to each staff member on shift (young person believed he was unclean because of his sexual urges which he couldn't control).
- other young people learned to accept his behaviours and the young person learned to tolerate his peers.
- still deemed by professionals as 'extremely high-risk' of re-offending.
- Court agreed not to impose a custodial sentence on condition that the young person attended a treatment programme in Muckamore psychiatric hospital.
- detained under the Mental Health (N.I.) Order 1986 in Muckamore 3 weeks after his 18th birthday.
- accepted that he required treatment and went along voluntarily.
- remains settled in this placement.

Case Study C – 17-year-old female

- fully engaged in the restorative approach employed within the unit;
- very good relationships with her keyworker and a number of other members of staff says this has been her most settled and stable care placement;
- a few minor cutting incidents on occasions when mood has been very low – most serious when ISU staff were off on a training course and temporary staff cover was provided;
- responded well to consistent boundaries;
- enjoyed getting out of the hustle and bustle of the unit and going for drives in the unit car – currently taking her driving test;
- family contact with her older sisters;
- availed of the community adolescent mental health services;
- attended an education and training programme to prepare for leaving care;
- completed ongoing independence work as well as leaving and aftercare assessments by Barnardos;
- moved into one of Barnardos supported living flats in September 09;
- ISU staff continue to offer emotional and practical support.

Appendix 5:

Statistical Bulletin 4/2009: Northern Ireland Youth Re-Offending – Results From The 2006 Cohort

Key Findings

- The overall one-year re-offending rate for persons aged 10 to 17 was 41.8% in 2006 compared with 39.3% in 2005.
- The one-year rate for all youths discharged from custody was 70.7%.
- Looking collectively at non-custodial sanctions, the one-year re-offending rate was 40.7%.
- The one year re-offending rate for community-based disposals (including combination order, community service order, probation order, attendance centre order, community responsibility order and reparation order) was 52.1%.
- Youth conferencing had an overall re-offending rate of 37.7%; analysed separately the rates were 47.4% for court ordered conferences and 28.3% for diversionary conferences.
- Within six months over three fifths (61.0%) of those discharged from custody had re-offended on at least one occasion whilst this was the case for 25.8% of those given a youth conference order and 34.7% of those given other non-custodial disposals.
- 41.2% of the 2006 cohort were aged 17 and of this group, 39.2% re-offended within one year. However, those aged 14 had the highest re-offending rate at almost a half (48.5%).
- 43.7% of males went on to re-offend within the year whilst the rate for females was much lower at approximately three tenths (29.5%).
- For the total cohort, approximately three tenths (29.9%) of those with no previous convictions re-offended within one year whilst the figure was almost two thirds (66.0%) for those who had nine or more previous convictions.
- For the total cohort, just over a quarter (26.7%) of those with no previous convictions re-offended within one year, whilst the figure was over a half (51.0%) for those who had one to four previous convictions.