

ACT Law Reform Advisory Council's Restorative Practices Inquiry

Submission to the ACT Law Reform Advisory Council

Relationships Australia

The work of Relationships Australia

This paper is written on behalf of Relationships Australia's eight member organisations but particularly in relation to the work of Relationships Australia Canberra and Region. It complements any separate submissions provided by Relationships Australia State and Territory organisations.

We are a community-based, not-for-profit Australian organisation with no religious affiliations. Our services are for all members of the community, regardless of religious belief, age, gender, sexual orientation, lifestyle choice, cultural background or economic circumstances.

Relationships Australia provides a range of support services to Australian families, including counselling, dispute resolution, parenting programs, children's services and relationship and professional education. We aim to support all people in Australia to achieve positive and respectful relationships. We also believe that people have the capacity to change their behaviour and, particularly, how they relate to others.

Relationships Australia has been a provider of family relationships support services for more than 70 years. Relationships Australia State and Territory organisations—along with our consortium partners—operate one third of the 65 Family Relationship Centres across the country. In addition, Relationships Australia Queensland is funded to operate the national Family Relationships Advice Line.

Introduction

This paper responds to the ACT Law Reform Advisory Council's Issues Paper on legal and justice issues relating to restorative practices, entitled *Canberra – becoming a restorative city*. The information in this submission reflects our experience in working with vulnerable children, young people, and adults through our Children's Contact Centres, family support services, early intervention services for at-risk families, men's behaviour change programs, services to support young adults transitioning from out of home care (OOHC) and therapeutic support for children in OOHC. We also provide services to adults who have had a history of trauma in childhood and early adulthood, including Forgotten Australians, those affected by former policies of forced adoptions and those people affected by matters relating to the Royal Commission into Institutional Child Sexual Abuse.

Relationships Australia Canberra and Region is member of *ACT Together* consortium, funded by the ACT Government to deliver support to children who can no longer live with their families, and to members of birth and foster families. Our comments are informed by the experiences of the people with whom we work, discussions with practitioners and support workers, research and reports.

Relationships Australia understands that relationship networks, whether in families, friendships, neighbourhoods or workplaces, are at the centre of communities. Building and maintaining relationships that are based on mutual respect, dignity and fairness is at the core of our work, and through our programs and services we aim to enable all people in all their diversity to live life fully within their families and communities with dignity and safety, and to enjoy healthy relationships.

We support policy development that assists systems, communities, families and individual people to embrace restorative practices and the transformation of Canberra to a restorative city.

Responses to the General Consultation Questions

1. What does restorative justice mean to you?

Restorative justice is recognition of the fact that when harm is done, it affects not only the individual victim and offender, but also impacts upon relationships and the wider community. As such, restorative justice principles emphasise the restoration of these relationships and repairing the harm done through restorative practices that are inclusive and holistic.

Restorative justice represents an approach whereby everyone who has a stake in the conflict has the opportunity to be present and heard, and where everyone plays a part in working out a solution to putting right the injustices done. Restorative practice empowers people, groups, communities and organisations to be mutually accountable for their behaviour and share responsibility for working together to build and repair relationships. Through relational processes such as family conferencing or circles, restorative justice values and promotes accountability, mutual understanding and respect, social harmony, and cohesion.

For our organisation, restorative justice and practice means a whole-of-community, systems-based approach, whereby services are linked up holistically across the community, outcomes are measured in the longer term, and there is a shared culture and vision promoting the values that restorative justice espouses.

2. What restorative justice values discussed here do you think would help make our community more restorative?

The values that underpin all of the work that we do at Relationships Australia include equality and fairness, dignity, empowerment, inclusion and healing for all. Given this ethos, our organisation is well placed to implement restorative practice, and would already have many restorative principles imbedded in our relationship based work.

Relationships Australia is a member of the Canberra Restorative Practices Network and has participated in a number of forums hosted by this group, including seminars that focussed on elder abuse and family violence. We are also a member of the restorative justice international learning community. Because of this, Relationships Australia is already actively participating in the restorative practice discourse and subscribing to the core restorative justice values in our practice.

However, we would still benefit as an organisation from a set of common principles that are shared across the ACT Government, as well as private and public sector organisations in Canberra. An emphasis on cohesion of both vision and services is an important element of a restorative community. We would also benefit from effective training to ensure that all organisations behave consistently, have a common understanding of language, principles and how they play out in practice, and have compassionate, fair, transparent and respectful processes.

3. If you have participated in a restorative justice process in the ACT or elsewhere, what was the experience like? Please let us know whether your role in the process was as a victim, an offender, or a support person, along with any good or bad things about the experience.

Many of the services currently delivered by Relationships Australia fit with the principles of restorative practice and many of our practitioners are skilled in using methods and tools associated with restorative service delivery. These include, but are not limited to, holistic service delivery, alternate dispute resolution (non-adversarial), trauma-informed services and family group conferencing.

In the Northern Territory, for example, we have been involved in a voluntary youth diversion program that operates within the restorative justice paradigm. It provides an alternative to more formal court processes for young offenders, and includes a requirement for the young person to attend a youth justice conference. Outcomes can be in the form of community service, or commitment to restoring the harm done to others, and include both victims and offenders in the process of restoration.

Relationships Australia has also provided support for those affected by the Royal Commission into Youth Detention in the Northern Territory over the past year.

In the Northern Territory, Western Australia, Victoria and Queensland we are participating in a pilot of a new program designed to support cultural and linguistically diverse and Aboriginal clients accessing family law services who are affected by family violence.

In South Australia, the Australian Institute of Social Relations, which is the training division of Relationships Australia SA, is currently developing restorative practice module for the South Australian Government. Relationships Australia SA's major partner is *Together SA*, a collective impact framework to address complex social issues including the safety and wellbeing of children and young people. *Together SA* uses restorative practice and outcomes-based accountability as organising principles to underpin partnerships between community organisations and the South Australian Government.

At Relationships Australia Canberra and Region's regional office in Wagga Wagga, family group conferencing services are delivered as part of the office's restorative practice by seven accredited providers of FGC for children at risk of removal from their families. These practitioners have reflected that the FGC process is most effective when every stakeholder, including the NSW Department of Family and Child Services, is fully committed to the process, rather than seeing it as merely a box to tick. This experience speaks to the need for genuine, whole-of-community support for restorative practice and a systems change that follows policy so that people from different systems can be brought together to resolve conflict.

4.

- (a) What programs, projects and organisations are you aware of that may contribute to the transition of Canberra to being a more restorative city?
- (b) Are there any barriers to these programs, projects or organisations promoting restorative practices in our city?

(c) What steps or measures would best support these programs, projects or organisations to continue, or grow, their work?

There are many current programs, projects and organisations across Canberra that are working restoratively, or parts of which can be said to be restorative. However, there are a number of key factors missing for the collective of the work of those organisations to allow Canberra to be truly named a *restorative city*.

First, there are many definitions or versions of 'restorative'. It would be useful to have a commonly understood lexicon and a significant investment in training and development throughout the city as each component part of the restorative story is developed and told. Those trained would include people working in Government agencies, service providers, volunteers and members of the community itself.

Second, it would be useful to identify and make known the work and capacity of each organisation that will join in the restorative space. This will enable potential partners in a restorative approach to social issues or to population-level responses to be identified.

Third, restorative practice is more than a collection of service methodologies to be available in a toolkit. It is as much about the organisational 'architecture' of joining trained and ready partners and participants, as it is about the toolkit's contents.

Critical to this architecture will be having well developed ACT (and more specific suburb-level) population datasets to create a baseline measurement of an issue. Then an outcomes-measurement tool will be needed to measure changes in the issue being addressed in order that, almost on a real-time basis (certainly weekly or monthly) all participants can see the level of effectiveness of the intervention in achieving the anticipated outcome. Examples could be measuring how well the collective approach is to reducing the number of children entering OOHC in a particular area, or increasing the percentage of children attending school at a specified group of schools, or reducing the numbers of families in inappropriate, inadequate or unsafe housing in the Territory.

It will take a concerted and highly orchestrated approach to achieve this, with the guidance of those who have successfully implemented it elsewhere.

5. If the ACT was to become a more restorative community, what do you think that would look like?

A restorative community in Canberra may be characterised by a number of commonly articulated and understood values and practices. Fundamentally, restorative practice is one in which relationships are at the heart of all work. In the case of fractured relationships, a restorative community would utilise restorative practice to challenge, rebuild and strengthen those relationships, and provide meaningful support to all parties at the earliest opportunity. Restorative practice is applicable in all parts of our communities, including in schools, Government and non-Government organisations and workplaces. Ultimately, restorative practice would require a commitment from the inside out and top down, in order to underpin all actions and practices in a restorative way.

Since 2009, Leeds City Council in the UK has undergone a complete systems transformation program to spread restorative practice across its social work, education, health, justice and other civic and regulatory systems. One key element of the Leeds program has been to expand the family group conference service to families experiencing domestic violence. The findings from the evaluation suggested that best practice in system change requires a shared vision and culture with a multi-agency approach, a supportive infrastructure, and an outcomes-based accountability framework. Funding community-level outcomes through an outcomes-based accountability framework meant that requirements for the delivery of services were less prescriptive about how to deliver a service, and the system supported families to manage the risk.

The report also recommended that restorative practice training must be implemented both on an awareness-raising level, and also on an in-depth level to embed effective practice. In Leeds this involved introductory, then 'Deep Dive' training for social workers to adopt a 'high support-high challenge' way of working with service users. It was also emphasised that restorative practice must not exist in isolation, but that success involves a supportive infrastructure and environment where change is co-produced with staff and stakeholders.

The Leeds approach has resulted in very large and very real benefits to the community in terms of school participation, the reductions in numbers of children in OOHC, children at risk of removal and other targeted areas for improvement. It is by the systemic approach that the most beneficial changes can occur – and consequent cost savings. We strongly recommend that the Leeds and Hull examples be examined for possible implementation of a similar model of social care in the ACT.

6.

- a. What characteristics or values do you consider are necessary for our community to become more restorative?
- b. Do these characteristics or values need to be formally established e.g. adopted by the Legislative Assembly or introduced in legislation?

From our experience, the key characteristic of a restorative community is one with good relationships. This involves building a shared vision that every stakeholder upholds, from the individual, to community organisations to government departments, along with a common desire to work together with families in order to achieve better outcomes and create stronger relationships. Stakeholders may include the police, health, housing and addiction services, as well as services working with children, and families affected by violence. To be fully embedded, there must therefore be a clear articulation of restorative practice values and goals that is well-communicated, understood and supported by the entire community.

A restorative community is also one in which comprehensive training is undertaken by everyone in the community, including individual practitioners, teams and organisations. Training that is in-depth and accessible is an essential characteristic of a supportive restorative infrastructure and environment where common ways of working and shared understandings are valued.

This submission focuses on the necessary practices and values in order for Canberra to become a restorative city. Whether these need to be formally established through legislation or otherwise is a question we feel that others may be better placed to answer.

7. What changes might be needed to make our City more restorative?

Clients come to our services from many and varied sources, including juvenile justice, child protection agencies, education settings or other community based support services.

We have observed very little change in OOHC in the time we have been providing support services to children and adults who are experiencing or have experienced it. Unfortunately, while the language may have changed, the OOHC environment has made little progress in terms of improving outcomes for children or their families. The pathways out of OOHC into independent young adulthood are little-changed, and often include unemployment, homelessness and substance abuse. We see children whose parents and grandparents also had experience of OOHC, continuing a cycle of intergenerational disadvantage.

Whether children spend a little or long time in OOHC, the experience is generally traumatic due to the loss, interruption or absence of their family relationships and the devastating consequences of the lack of, or interruption to, secure attachment. The intensive level of distress we see in our clients highlight the negative impact that OOHC care can have. At best, it provides experiences of protection and nurturing that support children to overcome the traumas that precipitated placement out of their home. At worst, OOHC amplifies or continues children's experiences of trauma and abuse.

Relationships Australia sees the implementation of a restorative model as an opportunity to change the traumatic trajectory for these children into their adulthood and break the intergenerational transmission of disadvantage signified by OOHC experience.

Two areas of focus for changes to the legislation could be privacy and child safe accreditation. First, of particular interest is the need for clarity on the boundaries of confidentiality and privacy within the context of safety. Confidentiality (or misunderstandings around what information is confidential) can be a barrier to ensuring effective services and support for vulnerable young people. In a true partnership, government agencies, services, and foster and biological parents would be able to share information that would promote the best interests of the child. For example, carers would have knowledge of prior trauma experiences of the child, and be trained and supported by trauma-informed services to assist the child to recover. At present, in our family law services for example, when we make a report to child protection services, we are not advised of the outcome of

investigations. We therefore miss a valuable opportunity to support biological parents who are at risk of child removal or who have had a child removed, or parents who are perpetrating violence; a key risk factor for child removal. Sometimes parents return to our service through other programs such as parenting or post separation support services, but information about other services and agencies they have interacted with is not available to assist us in supporting them, unless it is able to be articulated by the parents themselves.

In South Australia, the law has been recently reformed to enable better information-sharing to ensure children do not slip through gaps between government agencies and other service providers, and give more information to foster carers about the backgrounds of children coming into their home, so they are better prepared to care for them and deal compassionately and restoratively with their trauma.

It is imperative that organisations that work with children and young people should work in a child safe manner and obtain child safe accreditation to ensure that best practice is embedded across the organisation. While some organisations working with children and young people have adopted child safe guidelines, currently, there is no child safe accreditation requirement for organisations nationally or in state jurisdictions. Compulsory accreditation would further embed the right of children to be protected from harm when they are in the care of community organisations, and reinforce the responsibility of such organisations to have appropriate and effective processes and practices that protect that right. Relationships Australia Northern Territory has recently been accredited as a child safe organisation through the Australian Childhood Foundation's Safeguarding Children and Young People Program. This process involved extensive and ongoing training of staff and an overhaul of the organisation's policies to align with the Foundation's child safe standards and best practice models. Compulsory child safe accreditation for organisations is a policy that reflects the values of restorative practice and would support the creation of a restorative city.

It is also essential that a restorative community supports children in OOHC until they have the requisite skills and maturity to live and work independently from state care. Relationships Australia has recently joined the Home Stretch campaign, which is lobbying to see legislative change to extend the provision of out of home care to young people from the age of 18 years to 21 years. With current policies, care leavers are on a trajectory towards incarceration, homelessness and

unemployment. Providing an option to extend an OOHC arrangement will improve outcomes for care leavers and is a policy that would ultimately serve the goals of a restorative city.

8. What barriers prevent our community from becoming more restorative and how can we overcome these?

Current funding siloes and different program aims between State and Commonwealth government are an impediment to system change. At Relationships Australia Canberra and Region, the majority of our professional services are funded by the Commonwealth government and we are required to deliver services within the program aims of Commonwealth Programs. The families who access our services within Commonwealth-funded programs are often the same families who come to the attention, for example, of State-funded systems such as child protection. That the Commonwealth and State funded approaches are as disjointed as they are is catastrophic in some cases, where the cracks through which vulnerable families can fall are more like chasms.

Our workers reflect on the old-fashioned and 'office-centred' nature of current mainstream service delivery where we bring disadvantaged clients to our location and provide services to them at that location. This is often inappropriate for a range of marginalised groups, including Indigenous families, yet, due to funding constraints and the need to meet output targets, we do not have sufficient funding to undertake outreach and community development activities. For Indigenous people in particular, services accessed in their own communities are far more likely to be effective and be engaged with, without stigma.

Short funding contracts and performance indicators that rely on client level reporting take the focus away from what is needed – a flexible and innovative approach with community and population-level outcomes. Our organisations support longer-term programs that have community wellbeing as their outcome measures, such as restorative models that have been implemented in Hull, UK, rather than individual client level outputs. Such measures might include: fewer child removals, fewer children at risk of removal, improved school attendance and retention, reduced youth incarceration and reduced family violence. Funding bodies will need to accept that the outputs of these programs will be less, but there is huge potential that the longer-term outcomes will be better.

Focus Area Consultation Questions

9. The Council seeks the views of providers of CYPS services and of support workers, community agencies, lawyers and police working in the child protection area.
 - (a) What has been your experience of the child protection system and its approach to participants in the system?
 - (b) What could be done differently to reduce any trauma associated with the provision of these services?
 - (c) If the government is minded to change the way these services are provided, what legislative, procedural or other changes could be made to deliver services in a more restorative manner?

Even after many reviews following major incidents in the child protection systems over decades, systems in many jurisdictions are still largely punitive to the birth family, and established practices traumatise children being removed from their families far more than is necessary. The ACT is no exception.

At least, every chance should be given to a family (through supportive interventions at the earliest opportunity) to create a safe and loving environment to the family's children in order that they can grow and thrive with the people they most love and with whom attachment has in most cases been secured.

Appropriate and highly skilled work with families where violence is present is particularly important given that family violence affects so many. It is often the mother who is caught between trying to keep the peace with a violent father or partner at the same time as trying to give her children the love and safety they need. It is so often the mother that is punished by the removal of her children without the support (including the support following removal) she needs to create the home she had envisaged for her children.

In a truly relational approach, intervention would happen early and would be strong and supportive – as strong as the challenge is to the family to change. The family would be given, where safety levels allowed, every chance to create and maintain a home environment where children could grow and prosper. Removals would be a last resort and for as brief a time as possible, with the support continuing for the family after removal with an anticipated return of the children at the earliest opportunity. Removal would be undertaken only in extreme cases, and wherever possible in circumstances that involved the knowledge of the parents, by statutory officers who are fully trained and competent not only in their legislative power and responsibilities, but highly competent in areas such as relationship, child development and attachment, in order that the removal does not unduly add to the trauma already felt by the child. Family group conferencing, properly resourced, would also place the child, wherever possible, within their own extended family or community until such time as they could be reunited with their parents.

What we do not recommend is a tokenistic approach to restorative practice in the child protection arena. Relationships Australia has had experience elsewhere, for example, in family group conferencing where the following has occurred:

- a) In more than one jurisdiction, family group conferencing has been so under resourced that there could be no proper search by our service to identify all the members of the child's 'community' or extended family, such that the conference had a real chance of finding a suitable short to medium term outcome for the child's placement that would minimise their trauma.
- b) In another State, a family group conference was properly convened. During the conference, a Departmental staff member intervened on a number of occasions, taking away the extended family's sense that they were empowered or even being heard. On departing the Departmental officer told our conference facilitator that notwithstanding the family's wishes, the child was always going to be removed into a non-family foster arrangement.

It is examples like this that develop cynicism and circulates misinformation about what family group conferencing is and the transformative impact it and other restorative practices can have.

10. Are there other areas which should be considered as priorities for attention in moving towards a more restorative city?

If a holistic and systemic approach to reform was taken, all areas of government and the service provision sector would operate under the same set of guiding principles and outcomes framework. In fact, if only some dimensions of the system were reformed, it would be unlikely that we could fully realise the potential improvement in outcomes for the Canberra community. While we support a staged approach that could incorporate learning along the way, ultimately, the aim of reform would be a holistic set of principles and frameworks under which all members of the Canberra community could operate.

In some ways, a piecemeal approach would undermine the realisation of a restorative city, and its limited results would lead to cynicism and the self-fulfilling prophecy of sceptics.

In our view, while it will take time, a full transformation of all services and systems is how the maximum effect of restorative practice can be realised and in which Canberra will truly be able to name itself one of the world's restorative cities.

Alison Brook

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