RESTORATIVE CONFERENCES

RESOURCE KIT

This Manual is prepared for the Ministry of Education in accordance with the conditions of the Contract between Ministry of Education and University of Waikato to Trial Restorative Justice Conferencing Approaches to Reducing Suspensions in Schools.

The Manual is written on the understanding that only those persons who have undergone training as outlined in the Manual will use it. Use by untrained persons is not recommended.

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RESOURCE KIT

This Resource Kit represents the culmination of 18 months of work by a group whose links are with restorative justice, Maori protocols, and counsellor training with narrative therapy at the University of Waikato. The Project was contracted to the Schools of Education and Law at the University of Waikato through the Ministry of Education. The Project was overseen by the Waikato/Waiariki Management Centre of the Ministry of Education. The contract was for the development and trial delivery of a programme using restorative justice principles to reduce school suspensions and expulsions in five low-decile schools that have a high proportion of Maori and/or Pacific Island students on their rolls.

The Project Team

The central Project Team was John Winslade (Director), Wendy Drewery, Stephen Hooper, Gerald Monk, Donald McMenamin, and Angus Macfarlane, with consultative support from Alison Cotter, Marijke Boers, David Pare, Margaret Craig, Bill Anderson, Jan Robertson and Timoti Harris. The Project Administrator was Cheryl Brooks.

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Edgecumbe College
Melville High School
Opotiki College
Tauranga Boys' College
Tongariro High School

We especially salute the courage of the young people and their families who "gave it a go", when they didn't know what to expect.

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SECTION A.
INTRODUCING THE RESTORATIVE CONFERENCE PROCESS

Whakatauki

Tungia te ururua	*Clear away the undergrowth*
Kia tupu whakaritorito	*So that new shoots*
Te tapu o te harakeke	*May emerge*

WHAT IS A RESTORATIVE CONFERENCE?

A Restorative Conference involves the gathering of those who have a stake in a particular troublesome situation, to talk together to find ways of making amends. Stakeholders may include the student(s), "victims", teachers, parents and whanau, peers, community members, police, kaumatua, social workers and sports coaches or other concerned parties. The purpose of these conferences is to discuss what the problem might be and to pool ideas about what might be most helpful from here, for all concerned. From this pool of ideas should emerge a plan for restoration of the situation. In this process particular attention is paid to:

- Meeting the needs of victims and providing them with a voice
- Ensuring the community is heard in matters that affect them
- Emphasising restoration rather than punishment.

The spirit of these meetings must ensure that blame is kept outside the door, so that the conversation inside is characterised by respect and responsibility on the part of all participants. Accomplishing this challenge involves far more than setting down guidelines for who is to attend conferences, or what practical steps they will cover. There must be a clear shift in the way the issues are talked about - a shift based on carefully conceived guidelines designed to promote constructive and collaborative conversation.

These Conferences offer a helpful step forward by involving a range of participants who both contribute to and are affected by the situation at hand. They promote a spirit of open and direct conversation and add a human touch to the process of addressing transgressions. However, in our experience, such conferences can take a wide variety of shapes, and unless they are used carefully, can be used to provide an audience for public retribution almost as easily as their intended goal of promoting mutual dialogue, understanding and restoration. We believe that if group forums are to be effective, the meetings must avoid duplicating a dynamic of punitive authority/penitent student - a dynamic likely to be experienced as “more of the same” by a student used to feeling voiceless in the larger system. The Restorative Conference process presented here has been carefully developed in a way which offers maximum chance of avoiding such pitfalls.

What happens in a Restorative Conference is restorative justice in action. Restorative justice is an alternative way of addressing serious problems – not just in courts, but in schools. It places the young people, their families, the schools and the victims in the centre of the process. They all meet together to decide what should happen next, rather than to have a decision imposed on them. There is a chance for all parties to have an active role in the process rather than acting as bystanders. Thus restoration involves:

- Acknowledgement of the community of care
- Acknowledgement of the effects of the problem on the lives of all those involved.
- A deliberate focus on making things right for those affected badly by the problem.
- Legitimisation of alternative knowledge of the student and the problem.
- An affirmation of the student as distinct from the problem.
- The use of hospitality – food and drink – where appropriate.

Restoration may also involve:

- An awareness that we have tried a number of interventions before and now we are trying something different.
- A commitment on the part of school management and staff to encourage the spirit of restitution throughout the entire culture of the school.
- A recognition by the staff and management of the important linkages between school and community, and an openness to the contributions of persons not usually considered part of the immediate school community.

The Restorative Conference is an attractive option for

- schools who are wanting to do something more constructive than continually punish, and eventually exclude or expel troublesome young people;
- victims of incidents, who can have a greater say in the process of setting things to rights;
- those who fall foul of school authorities and their families, who without a similar process may be left frustrated and angry at the system that seems to abandon their educational needs.

PURPOSES OF A RESTORATIVE CONFERENCE

- To outline and provide schools with a restorative rather than a retributive process for dealing with serious disciplinary issues.
- To produce outcomes that open new and better future possibilities for victims, offenders, and school communities when serious discipline problems arise.
- To encourage and develop communities of care within the school environment.
- To open ways of enabling the community of care around a troublesome young person to assume greater responsibility for dealing with the effects of harmful actions, in collaboration with the school.
- To develop a culture of restoration rather than retribution within the school.
- To reduce the numbers of students being suspended or excluded from school.

HISTORY OF THE IDEA

The development of Restorative Conferencing in schools began when Judge McElrea, then a Judge in the Auckland Youth Court, linked restorative justice with school discipline, in his paper "Education, discipline and restorative justice", given at a seminar organised by the Legal Research Foundation in March 1996 (McElrea, 1996). McElrea pointed out a high likelihood that young people who were expelled from school would eventually appear before the Youth Court. The Judge noted with concern that young people could at that time be expelled from school and in effect be lost from the education system altogether.

During the late 1990s concern deepened as school suspensions threatened to spiral out of control. For example, in 1997 official numbers of suspensions went to 11393, 1300 more than in the previous year, and more than twice the number in 1992. In 1998 there were 11929 reported suspensions (specified and unspecified), or 61 per school day (Ministry of Education, 1999). The major categories of offence were drug-related behaviour, continual disobedience, physical assault on staff or other students, and verbal assault on staff. Males and Maori were more likely to be suspended. Where suspension was a phenomenon confined to high schools, now it is happening more and more frequently in primary schools. The popular media contributed a sense of moral panic about these developments that was difficult to ignore. We must note that this phenomenon is not confined to New Zealand however (Abdelnoor, 1999).

In 1997, Stephen Hooper of the University of Waikato School of Law spent time in Logan, Queensland, setting up the youth justice Community Conferencing pilot. The conferencing process used there finds its origins in New Zealand as an attempt to find alternative ways to involve the offender, his or her community and the victim in determining what should be done to address youth crime. While in Australia Stephen had an opportunity to trial some changes to the Family Group Conferencing model. These changes were successfully implemented and the project was able to achieve excellent results. While in Australia Stephen was also able to make contact with Mary Hyndman, one of the original people responsible for Accountability Conferences in Queensland schools. The experiences of both of these projects inspired Stephen to attempt to trial a similar project in New Zealand (Hooper, 1998; Palk, Pollard and Johnson, 1998; Queensland Department of Justice, 1997).

In New Zealand in 1999 the laws surrounding suspensions were changed, and it is now incumbent on School Principals to provide alternative options for students who are suspended or expelled. New categories of suspension are now recognised, including Stand-downs, Suspensions, Exclusions and Expulsions. Expulsions are only legal for students over the age of 16 (Ministry of Education, 1999a). The emphasis of the new legislation is on keeping children in school.

In 1995, the then Commissioner for Children, Laurie O'Reilly, suggested that schools would increasingly become a focus through which social services might be delivered to needy students and their families (McElrea, 1996). This call was taken up by the new Commisioner, Hon Roger McClay, in relation to the need for advocacy for children and their families within the Education Sector:

> The social context within which the education sector operates has significantly altered over the last ten years. Government has recognised that changed social context in prioritising initiatives to lift educational standards and achievement, to reduce youth crime, and to strengthen families in order to create more positive outcomes for children and young people, and for society in general. There is common acceptance that the role of schools has expanded to include reducing those social barriers (Grant, 1999, p. 6).

Thus two major arms of Government, namely Justice and Social Services, have begun to turn their attention to Education and schools as sites for social intervention. Although educationalists have always understood themselves as agents of social transformation through imparting knowledge, it is only recently that other agencies have seen the central importance of the school in terms of social learning.

Restorative Conferences have similarities with the Family Group Conferences developed by the then Children and Young Persons Service, but there are important differences. In part, these differences have to do with two other historical influences that have contributed to the development of these conferences. One of these influences is found in traditional Maori practices and the protocols or kawa around hui: the kawa for such occasions has a long history, and although kawanatanga is slightly different in different iwi, there are some common aspects that have been incorporated into Restorative Conferences. In particular, there is a long tradition in Maoridom of meeting to discuss difficult issues: of allowing people to speak plainly; of listening long and hard to all sides of an issue until it is resolved by consensus. Above all, these familiar practices provide a forum where the ground is an expectation of respect for all parties.

The final historical trend that has informed this form of conferencing has come from counselling. Since the early 1970s appointments of counsellors have been made in secondary schools throughout New Zealand. Within the counselling profession, and in counsellor training, there has been a trend away from working with individuals, to working with families, classes and even with entire school communities. Although there will always be a place for the one-one counselling interview, the "culture" of a school, and the broader social context within which the school operates, are recognised as having major impacts on the behavioural and developmental possibilities available to individuals within those communities. Such understandings have impacted on the ways in which counsellors understand their work, and on the methods they employ. Narrative therapy is an approach which was originally developed by Michael White of Adelaide and David Epston of Auckland (White and Epston, 1992). This approach deliberately sets out to hear and respond to the capabilities and successes of persons, rather than focussing on their failures and deficits. The approach is proving to be of particular value within the school context (Cheshire and Lewis, 1996; McMenamin, 1998; Winslade and Monk, 1999). A narrative approach to conversations is taught and researched by staff teaching counselling at The University of Waikato School of Education (Monk, Winslade, Crocket and Epston, 1997). Members of the Project Team are also engaged in teaching and research in developmental psychology (Bird and Drewery, 2000), conflict resolution (Hooper, 1999), mediation and organisational change (Winslade and Monk, 2000).

SECTION B

THE RESTORATIVE CONFERENCE

CONFERENCE EXAMPLE

This is a fictitious example using actual events that have occurred in various different hui run during the time of the trial. We invite you to read it through for enjoyment. Later perhaps you may come back and trace the different phases of the hui process. Transition between phases should be as seamless as possible.

It has been suggested by the Dean of Form Five that a Restorative Conference might be a good idea for Grant. He has been involved in a series of conflicts around the school, has a history of spasmodic attendance and is not doing as well as he did last year in his studies. Two years ago he was stood down for bringing alcohol to school. After that he ran away from home for two weeks and when he returned he was sent to live with his grandmother in Taupo. In the middle of last year he returned home to live with his mother, Taima, when his grandmother's health deteriorated. The latest crisis has been brought on by a fight with two other boys from a neighbouring school at the bus stop after school. There had been some taunting and teasing going on and he had lashed out punching another boy on the face and then kicking him when he fell to the ground. The other boy's friend had then come to his aid and a brawl had been broken up by the arrival of a teacher on the scene.

The school principal was thinking of initiating a suspension hearing with the BOT but in the end agrees with the Dean's suggestion that a Restorative Conference would be worth trying in this case. However, in the light of the assault, he does suspend Grant pending the outcome of the Restorative Conference and specifies that if Grant does not show any inclination to make amends for what happened, then the Board hearing will follow. On the other hand if the Restorative Conference does produce some positive outcomes these will be presented to the Board and will be considered as part of Grant's re-incorporation back into school. He then calls the school guidance counsellor into the discussion, asking her to be the conference facilitator for this case. Sue, the Guidance Counsellor, has had some dealings with Grant, mediating in a dispute with an art teacher at the end of last year, but she agrees that she is not in a position where she would be compromised in the conference itself by a need to advocate on his behalf.

Sue has also met Grant's mother when his older sister was at the school and knows of her connections with the local iwi. Sue consults the conference support person, Yvonne, who is also the school's truancy officer and has whanau connections with the same iwi as Grant. She therefore has a head start in knowing about the appropriate iwi and whanau support that should be invited to the hui and about the best ways to invite them. Yvonne takes up this task. She consults with Taima and with the local kaumatua, Cliff, about who is a significant part of the community of care for Grant. The kaumatua agrees to attend the hui and assists with inviting Grant's whanau to attend. He makes contact with his cousin, Grant's grandmother in Taupo, who is not well but will send her son, Grant's Uncle Toby, to the hui.

Sue makes an arrangement to meet with Grant and Taima and she and Sue go round to their house after school. Taima's new partner, Tom, joins this meeting. He starts off by wanting to know what the fuss is about.

"It's just a little scuffle isn't? Kinda stuff kids always get up to."

Taima interrupts him and disagrees, pointing out that the school was close to suspending him and that there have been problems for Grant at school for some time. Tom shrugs. Sue and Yvonne take the opportunity to explain to them both that the school does take violence seriously but that they are not wanting to just punish Grant.

Rather they want to use a Restorative Conference to set things right and to give him the chance to make amends.

"Where's Grant, by the way?" asks Yvonne.

"He's in his room. I told him to stay out of the way while you came round."

"Well don't you think he'd better get himself out here? Don't want to talk behind his back. And we need his help to think about these problems. It's not just up to others to solve them for him."

Grant is fetched and enters the room sheepishly. He looks awkward while the purpose of the conference is explained to him. "Am I going to be expelled?" he asks in the end.

"Not right now," explains Sue, "although the Principal did consider that option. But what we have to do here is start to get to understand what happened and how it can be set right. Can you start by telling your story of what happened at the bus stop on Thursday."

Grant tells a short version of the story. Sue and Yvonne ask him a series of questions to expand on this version. They are keen to understand what his thinking was when he hit and kicked the other boy. Grant explains that he was scared of being attacked himself and decided to get in first.

"You know we've got a letter here from the Principal of Sunnyside High School concerned about what happened," says Sue. "He is worried about fights between pupils of their school and ours and he says also that the boy concerned was taken to the doctor after the fight and that he had mild concussion. Did you know that?"

Grant's eyes widen. "No," he breathes.

Sue turns to Taima. "Is Grant usually a violent person?"

"No,"says Taima. "He's quite a softie actually." Grant looks embarrassed while his mother tells about his affectionate nature, his caring for his younger sisters, and his helpfulness at home.

"So do you think of yourself as violent, Grant?"

"No," he grins and shifts in his chair.

"So what we have to figure out is how violence took over against your better judgment and got the better of you on this occasion and what we can do about that?"

The discussion continues along these lines and ends up with Yvonne asking Grant if he wants the feud with the kids from Sunnyside High School to continue or whether he would like to be part of stopping it. Grant is in favour of stopping it. Yvonne follows this up by asking whether he is willing to try to make up for the damage his own actions have done by facing up to the boy he hit and his parents in the Restorative Conference and setting things to rights. Grant hesitates because he is unsure what this will mean, but after some explanation he is generally in favour of the idea.

"That's good," says Sue. "If you weren't willing to say that, then we couldn't really go any further and you might have had to face a suspension."

Taima is grateful that the school is taking this line. Tom supports it too and agrees to attend the hui too if he can negotiate some time off work.

The next day, Yvonne is contacted by Jim, a local youth worker who has heard about the hui from Grant when he met him at the youth club on Fri evening. Yvonne invites him to attend. From Jim she learns that Grant belongs to a rugby league team. She finds out the name of his coach, Roger, who has been a kind of mentor for Grant and has nominated him for the rep team. Yvonne invites Roger to the hui as well.

Meanwhile Sue talks with Grant's teachers at morning break. She outlines the purpose of the planned hui and asks who is willing to attend. Grant's form teacher agrees to come. His Geography teacher has had some problems with Grant recently and on the basis of this Sue asks her to come to the hui in order to have these addressed. Grant's music teacher speaks of her very good relationship with Grant and how he often spends lunchtime in the music room. She agrees also to attend the conference in order to be able to speak about this.

Yvonne has now visited the family of Aidan, the boy who was assaulted by Grant. Aidan has been back at school but has not been catching the bus for the last few days. His parents have been driving him to and from school in order to prevent any further incidents from happening at the bus stop.

Aidan's parents are angry about the assault on their son. They want to know what Grant's school is doing about it. They hope that Grant is being punished severely. Aidan himself is less gung-ho about Grant being punished. But he is scared of Grant and doesn't want to see him again on the street. Yvonne explains the purpose of the Restorative Conference and invites them to be part of it as a chance to speak their minds about what happened. They can also contribute to the discussion of what needs to happen to set things to rights. Aidan's parents are a little doubtful about this process but in the end Aidan and his mother agree to come to the meeting. Yvonne asks them who they need to have with them for support. Aidan identifies his friend Mark, who was also involved in the fight. Yvonne agrees and asks Aidan to speak to Mark and invite him to come along.

Te Hui Whakatika

The day of the hui arrives. Grant and his family arrive early but Grant disappears two minutes before the conference is due to begin. He returns five minutes later to the relief of his mother. With him he has his friend, Wiremu, who was also at the bus stop the previous Thursday afternoon. He speaks to Yvonne and asks if Wiremu can be included in the meeting. Yvonne and Sue consult and agree to this.

The meeting is being held in the community centre fifty metres from the school. It is the place where the local kohanga reo meets. Cliff, the kaumatua, begins the meeting with a brief powhiri and a karakia. Then before he hands over the meeting to Sue to facilitate the conference, he mentions that he has been thinking about where to sit in the hui. He has decided, he announces, to sit down beside his whanau member, Grant. He walks across the room and sits beside Grant, who has been sitting with his head lowered, just above the level of his knees. He looks up at this point and then down again quickly as the kaumatua arrives beside him. He looks awkward and a little redfaced but manages a hint of a smile.

Sue begins by explaining the purpose of the hui. She explains that this is not like a court hearing and they are not here to work out whether Grant is guilty or not. The meeting is about understanding what has happened better and making amends. She also says that the meeting is not about pinning blame. It is about accountability and responsibility, but not blame. She writes on the whiteboard at this point, "The person is not the problem; the problem is the problem."

Sue then asks everyone in the meeting to go round and introduce themselves and say what their connection is with Grant. She also asks everyone to say what they hope will come from the meeting. Everyone introduces themselves and speaks about their hopes. The kaumatua hopes that the meeting will restore the mana of Grant's whanau by addressing the problem. Taima hopes that everyone will get to see that

Grant is a good kid. She adds that she doesn't want this to sound like she agrees with what he did. One of Grant's teachers hopes that this problem will be dealt with and that he will get back on track at school. Aidan is not sure what to say. With some prodding from his mother and some questions from Sue, he manages to say that he hopes he can go back on the bus without feeling afraid of Grant and his friends. Then it is Grant's turn. He shrugs and looks awkward. Sue is patient. She asks him several times in different ways. In the end he blurts out that he hopes he can stay at school.

Then Sue asks the Principal to outline the background to the problem and the reason for the meeting. The Principal does not mince words. He tells bluntly the story of what happened at the bus stop and outlines the seriousness of the problem and the extent of the injury to Aidan as he understands it. He talks about the background issues that led to the school having concerns about Grant and he says that this situation means that there is a major threat to Grant's school career. He mentions that the Board of Trustees will need to hear about the outcome of this hui and will want to know that the matter has been addressed and that amends have been made.

Sue turns to Aidan and his mother. She asks Aidan whether what the Principal has described is a fair account of what happened as he saw it. Aidan agrees. She asks the same question of Grant. He does not dispute it. Sue checks to make sure.

"You do accept responsibility for hitting and kicking Aidan?" she asks.

Grant nods.

"Are you willing to try to make amends for what happened?"

Grant is prepared for this question, looks at his mother, and says yes.

Sue proceeds to draw a circle on the whiteboard. She then says that she wants to hear from everyone about how, from their perspective, they would describe the problem or problems. She will write all of the ideas in the circle. There is a silence while everyone thinks. Then Grant's form teacher speaks and says that the problem as he sees it is poor communication skills. Grant is lacking in enough communication skills and therefore he seems to get into fights like the one that happened at the bus stop. Sue writes poor communication skills in the circle.

Aidan's mother expresses concern about the supervision at the bus stop. She says that there have been problems at that bus stop for years as the children from the two schools meet there. Sue writes, bus stop supervision in the circle.

Grant's rugby league coach speaks about the need to respect the rules and the referee in a game and how conducting yourself around school is no different.

The geography teacher speaks about the problem being a bit wider than just Grant. She tells of a group of boys who seem to be always frightening other students with their standover tactics. She does not think Grant is the leader of these boys and is not always involved but she sees him getting caught in the game that they play.

"So he's acting staunch," says Tom.

"Exactly!" agrees Miss Finch.

Sue writes staunchness in the circle. After a number of contributions like this Sue asks Grant to say what he thinks the problem is. Grant looks surprised to be asked, and thinks for a minute. Wiremu whispers in Grant's ear at this point. They talk under their breath for a few seconds so no one can hear. Then Grant answers Sue's question.

"I don't want to make any excuses but yous don't all understand about the war that's been going on between us and the Sunnyside snots, that's what we call them. They called Wiremu a black bastard the other day. That's what made me really wild."

"That wasn't me," Aidan, jumps in. "He's right though. Someone did call that out, but it wasn't me."

Mark hastens to add that it wasn't him either and also confirms the racist remark. Sue therefore writes "racist remarks" down in the circle. She goes on to ask whether this was like a one-off remark or whether it has been going on for some time. The young people between them paint a picture of a build-up of tension that has featured such racist undertones for several months.

When everyone has had a say there are perhaps fifteen descriptions of the problem in the circle. Sue asks whether there are any descriptions that stand out for everyone as the best description. Cliff and the Principal both speak in favour of the boys' descriptions as sounding like the most accurate ones of what has been going on.

Sue then draws a series of spokes out from the circle with the problem named inside it. "So if all of this might be called the problem" she says, indicating the words in the circle, "let's ask the question, how has this problem affected each of you? Now I am going to ask you to go first, Aidan, because you have been the one who has most recently had a direct effect of this problem on you."

Aidan speaks briefly about being concussed. His mother elaborates on the seriousness of the head injury, the headaches and the vomiting, and on how Aidan has been affected by the fight. Sue reminds Aidan that he said before that he was frightened to go back to the bus stop and has been getting a lift to school in the last week. She writes "concussion" and "fear" on the end of one of the spokes from the circle. Then she turns back to Aidan's mother and asks her how the whole problem has affected her. She speaks about feeling angry at how her son was assaulted and says that if this happened in town there could easily be a court case happening right now. She talks too of how she was worried about what was happening to her son. Then she mentions how this has meant taking time off work, with a loss of pay, to take him to the doctor and drive him home from school. Sue makes sure that Aidan and his mother have a full enough chance to speak about the effects of the problem for them before taking anyone else's comments.

Sue then goes round each person in the room and asks about the effect of the problem on them. Taima speaks of being disappointed and ashamed because she had thought that things were going well for Grant at school after some problems a couple of years ago. Tom tells how the family has been all upset by these events. The Principal speaks of how embarrassing it was to get a phone call and a letter from the Principal of Sunnyside complaining about this incident. The music teacher tells of his respect for Grant and his dismay to learn about what seemed to him to be an out of character act. Uncle Toby speaks about the shame for the whole whanau from what happened and at the same time his anger at hearing about racist remarks at the bus stop. Wiremu tells how he is worried for his friend that he might be kicked out of school. And lastly Sue asks Grant about the effect of the problem on him. Grant again is surprised to be asked. With some help, he tells about how he has been "feeling stink" about hurting Aidan so badly. It has got him into trouble and he doesn't like being suspended. He is concerned that this problem may lead to him being expelled.

Sue has written notes on all of these comments on the spokes of the circle in which the problem was named. She then asks what it is like for everyone to look at all of these things that made up the problem and its effects. There is general agreement that they have all already learned something about what has been going on that they didn't know before.

Sue asks about what they have learned that is surprising to them. Cliff has not said much until now. He takes the opportunity to speak about the racist remarks and how serious they are. He asks the school to take these as seriously as assault because they are a poison that eats away at the whole community. Taima is sorry to hear about the extent to which Aidan's mother has been affected and she says she can understand that too because she would be the same if Grant had been assaulted. Grant is surprised to know that the Principal was personally embarrassed when he heard from the Sunnyside Principal.

Sue asks Grant which description of the problem is the best one from his perspective. Grant looks at them for a few seconds and selects two out. One is the "racist remarks" and the other is "staunchness".

"So would you like "racist remarks" and "staunchness" to see you put out of school and have all these effects for everyone else or would you rather stop them from winning so much?"

Grant is clear that he would like to stop these problems from ruining his schooling.

Sue then draws another circle on the whiteboard and some more spokes out from this one. "Now let's try to get a bigger picture of Grant," she says. "We need to find out more about when these problems are not in charge. So who can tell me some things you have noticed about Grant that do not fit with this problem story over here?"

Taima is the first to speak. She tells about how she and Tom both go to work early in the morning and how Grant has the responsibility of organising his two little sisters for school, making their lunches and walking them down to the school crossing. She tells how he does this very responsibly and how his two sisters look up to him and trust him implicitly. Sue writes this on the end of one of the spokes. She then asks what these actions say about the qualities and abilities Grant has. They settle on the word responsible and Sue writes that word in the centre of the circle

Grant's music teacher speaks about his care for the musical instruments in the music room and how last week he came into the room to find Grant sorting out a dispute between two other kids and telling them to take more care with the instruments.

"Would this be an example of Grant showing that he can have good communication skills?"

"Definitely. I was very impressed with this. The other two actually took more notice of what he said than what I might have said."

Sue asks Grant how he had done what he did. Grant shrugs and grins. Sue persists. She wants to know about what happened, what sort of thoughts he had about this incident at the time and what it says about him. Sue writes "good communication skills" in the circle.

Roger, Grant's rugby league coach tells of what a disciplined player Grant is on the field. He has never seen him involved in any dirty play.

"Does this mean that he has the ability to control angry responses and not let staunchness get the better of him when he wants to?" Sue asks.

Roger agrees and Sue questions Grant a little about how he knows to do this. "What's a word to describe this?" Sue asks in the end.

"Self control," suggests Grant's form teacher.

Uncle Toby raises the question of the racist remarks. He says that he doesn't agree with what Grant did, but that he is proud of him for standing up against racism. Sue asks about what he thinks this says about Grant. Toby and Tom and Taima all

speak about how they want him to stand up against things that are wrong. They tell a story of him being a sensitive person who feels injustice acutely. A story emerges of his history of having a "strong sense of justice". Sue writes these words in the circle also.

"That's all very well," blurts Aidan's mother impatiently, "but my son didn't make those remarks and he was the one that got assaulted. He may well be a very nice boy but he still did something very wrong and my son got hurt and he can't go round doing things like that." She becomes flustered at this point and takes out a tissue to wipe a tear from her eye.

Cliff comes to her support. He looks at Grant. "She's right you know. You can't do things like that. What you did was as bad as the racism. So we do have to make amends for that. It's not OK that Aidan here is afraid of you. There are other ways to deal with racism."

"Do you want people like Aidan to be afraid of you?" Sue asks Grant.

"No," says Grant.

"Why not?" asks Sue.

Grant thinks hard. "Because I want people to like me and respect me. And I'm sorry about what I did." He looks at Aidan. "Sorry bro. I won't ever do that again."

Aidan nods but says nothing.

"What's that mean to you Aidan?" Sue asks as she writes the words "apology to Aidan" on one of the spokes.

"That's cool,"says Aidan. "But he better tell his mates. It's not just him you know."

"Yeah well it's your mates too," says Wiremu.

"Are you boys willing to take a lead with all your mates to settle things down between you all at the bus stop?"

"Yeah we gotta do that," says Mark. "Because it could be someone else that gets hurt next time. Could be me."

"How about you others," Sue persists.

They all nod.

"OK. Well we need to get on to working out what we are going to do to make amends. But first let me check one thing. Grant we have two pictures here. One is the problem story. The other is this other story about you that is all about responsibility and strong sense of justice and having good communication skills. Which one of these stories would you prefer everyone here to know about you in future? Which one do you like best?"

Quickly and definitely Grant answers, "That one," and points to the story of responsibility.

"OK," says Sue. "Our task now is to form a plan for how to make this story go forward and to address all the issues in the problem story. And in the process we need to find ways to make amends for what has happened." She turns to Aidan and his mother. "You're very important here too. Because whatever plan is made here needs to do whatever needs to be done to set things right for you."

The next twenty minutes are spent with discussing ideas for addressing the problems that have been raised. Taima offers to pay the medical bill for Aidan's visit to the doctor. Grant will do a series of jobs to earn the money to pay her back for this. Uncle Toby has a painting job that he would like Grant to do for this purpose as well and wants Grant to come down to Taupo for a weekend to visit his grandmother anyway.

A proposal develops for a delegation to go from the school along with Grant and his mother to Sunnyside High School. There a meeting will be held with the Principal and some of those who were present at the bus stop last Thursday. Grant will offer a formal apology to Aidan in front of these others and will ask the Sunnyside people to make a truce and stop the niggling at the bus stop. The Principal agrees to take up the matter of the racist remarks with the Principal of Sunnnyside High and together to see to it that there is more teacher supervision at the bus stop over the next few weeks.

Grant agrees to meet with Sue to discuss violence and the thinking that makes it likely to take over. He will also do some investigation of concussion and the effects of head injury and present what he learns to the fifth form dean.

Grant agrees to sit separately from his mates in geography for the next three weeks. The music teacher agrees to talk with Grant every Wednesday lunchtime and to check with him about how school is going so that any problems don't start to build up and can get sorted out quickly.

The fifth form dean will meet with Grant's teachers in two weeks from today, and again two weeks after that, to see if there are any problems in class. He will also monitor Grant's attendance in class on a daily basis for a month and report to Taima on any problems.

The Principal agrees to ask the Board to lift the suspension on Grant. However he warns that the Board will want to know at its next meeting how things are going and that he will be asking for a report from the fifth form dean to give them from all of those present to take to the Board. The date for this report is established. He also warns that if anything serious like this happens again this year it will be much harder to persuade the Board not to suspend Grant.

Grant asks if he can go on a daily report. He says he works better when he is on this. The fifth form dean agrees to this for two weeks initially. Taima asks to see this. It is agreed that Grant will bring this report home for her to sign every day. She also makes an arrangement to phone the fifth form dean every Friday to keep in touch with how Grant is doing.

Yvonne will write up this plan from the notes she has taken and see that everyone gets a copy. Sue will call a meeting in a month to review how this plan has been working. This meeting will not involve everyone who has been present today but will include Taima and Grant and the 5th form dean.

Sue asks everyone if there is anything they want to say in conclusion. Aidan's mother says that she has appreciated this meeting and that it does make a difference to address things in this way. She is satisfied that Grant will do his best to make amends and she is not as angry as she was before the meeting. Grant's geography teacher says that she is pleased to learn a whole lot more about Grant that she didn't know. The Principal is grateful to learn about the situation that has developed at the bus stop and will now be able to address it. Sue asks Grant how he has found the meeting.

"I thought I was going to get a bollocking," he grins.

"Has this been different from a bollocking?" she asks.

"Yeah it's been much worse," he jokes.

Sue asks the kaumatua to end the meeting before they all are invited to join in a cup of tea and some cake. Cliff says a few words about how precious each member of a whanau is and that Grant is no exception. He is glad that the meeting has found a way to address these problems without having to chuck someone out. He pays his respects again to Aidan and his mother for having the courage to come along to this

meeting. "That was not easy and it has made a real difference," he adds. Finally he addresses Grant. He pledges his awhi for Grant and also states his expectation that Grant will make his whanau proud by his actions in future. "If not you'll have to answer to me," he says, "and I'll be much tougher on you than the school will be."

Everyone laughs and Cliff closes the meeting with a karakia. All adjourn to the kitchen for a cup of tea. Taima ensures that Grant takes responsibility for handing the cake round to everyone without eating a piece himself first.

A RESTORATIVE CONFERENCE

Description of the Hui Process

Whakatauki

Tungia te ururua	Clear away the undergrowth
Kia tupu whakaritorito	So that new shoots
Te tapu o te harakeke	May emerge

Stage One
Te Hui Whakatika
Before the Restorative Conference

Deciding to run a Restorative Conference

The decision to hold a Restorative Conference will be made according to the systems that operate in a particular school. It will however need to include the senior administrators of the school, usually the Principal and Deputy Principal. It may well be from a form level dean that the recommendation comes to run a conference.

A Restorative Conference is an event that takes some organisation and commitment of resources. Therefore it should not be undertaken lightly or for relatively minor problems. There should be some indication that a suspension or stand-down is being considered or has taken place. This is not to suggest that the principles of restorative justice cannot be used at an earlier level of the development of a problem, but the Restorative Conference itself needs to be used for carefully thought out purposes.

Appointing a facilitator

Once a decision has been made to run a Restorative Conference, a trained facilitator should be appointed. This person may not do all the work needed to implement the conference alone, but someone does need to oversee the process. There should be at least two trained facilitators in a school. Choosing the best person may involve checking with the facilitators about their previous relationships with the person the conference will be about. If one of the possible facilitators might be better suited as an advocate for the young person in the conference then it may be advisable for another facilitator to run the process.

Pre-hui meetings **(Before a Restorative Conference takes place)**

Decide who needs to be involved in the hui.

The most important task is to identify the appropriate community of care around the young person on whom the conference will focus. This should not be decided structurally in terms of whanau/family or school. For example being a family

member or a teacher for that young person may not be enough reason for someone to be invited to take part. There needs to be some contextual relationship to the person that defines them as part of the community of care. The problem itself may bring some people into reckoning who might otherwise not be considered. For instance the victim of a specific action such as an assault should be invited.

People who may be invited include kaumatua, family/whanau members, teachers, friends, youth workers, sports or activity coaches, counsellors, psychologists, social workers.

Both victims and offenders may want to bring with them support persons to the conference. This should be encouraged.

Key Questions include:

Is there a victim?
Who has a stake in addressing this issue?
To whom does resolving this issue matter?

Seek agreement to participate of the victim/offender

Seek the agreement of the victim and of the offender to taking part in the process. The process cannot work without the victim's input (if there is a victim). However, it can still go ahead if the victim chooses not to be present for the conference, provided that this person's perspective is gathered in advance and represented in the conference (e.g. by letter or recorded interview). The victim's participation in the conference/hui is voluntary and no coercion should be used to get victims to attend. This includes persuasion by means of appeals to their civic duty or the like. The offender's participation should also be voluntary. Alternatives that may be less appealing may be suggested so as to create a situation of choice.

A key issue is the willingness of the offender to participate in a process of making amends. This requires an admission of having offended. If the offender is more concerned to establish their innocence or to blame someone else for what happened, then this may not be the right process to use. The Restorative Conference should not become a court hearing. If it becomes clear in the conference itself that the offender is not willing to take any responsibility, then the facilitator should consider abandoning the process and not proceeding.

Key Questions include:

Has the offender admitted his/her part in the offence?
Is the offender and his/her whanau willing to participate in making amends?
Is the victim (if there is one) willing to take part in the conference?

Research the background issues

For a Maori offender it is important to establish the whakapapa of the young person. This will mean learning about whether their iwi affiliation is to a local iwi or not. Kaumatua assistance may be required to ascertain this information. Taking time to research this information and identify who might best be invited to the hui will pay dividends in the conference itself. The kaumatua should also be consulted about how to invite whanau members.

For someone of another culture it will also be important to establish culturally relevant information about the community of care.

Background research may also need to include learning about the problem issues as they have evolved. This will involve talking to key people in the school who know about the issues and about the young person.

Key questions include:

What is the iwi affiliation of the young person? the whanau connection?
What is the best way to approach the whanau?

Whanau meetings

The legwork done before a Restorative Conference has a big influence on its success. It is necessary to meet with the offender and her/his whanau, and the victim and her/his whanau (separately), before the Conference hui itself. The purpose of these meetings is: to explain the purpose of the Restorative Conference, to prepare people for what will happen, to hear their story of what has happened, to begin to talk in ways that are non-blaming and that are consistent with the idea that "The problem is the problem; the person is not the problem."

The victim (if there is one) and his or her whanau should be met with first. This is because it may alter substantially what will happen if the victim decides not to attend the Restorative Conference.

Then the conference support worker and/or the conference facilitator should meet with the offender and her or his whanau.

A meeting (usually brief) with the teachers of the offender should also take place in order to inform them of the Restorative Conference, to seek background information and to invite those most appropriate to attend the conference.

Another purpose of these meetings is to establish the suitability of the proposed time and venue for the Restorative Conference itself.

The focus of these separate meetings should be:

- *to discuss the issue, and allow people to tell the story of what happened from their perspective and voice their feelings/opinions*
- *to invite/encourage and seek agreement from everyone to attend the conference*
- *to explain what will happen at the conference, including conveying realistic expectations of what the process can achieve*
- *to allow people to express feelings about the process including doubts, misgivings and ambivalence*
- *to discuss the best way to invite people to attend. (Making phone calls, sending out brochures, letters)*
- *to establish whether there will be a mangai (mouthpiece) in the conference for the young person or whanau. (Or establish other relevant cultural processes)*
- *to prepare people for their role in the conference*
- *to explain the ways of speaking that will be encouraged at the conference.*
- *to help prepare victims and offenders to express their views in a way that will promote positive outcomes*
- *to reassure the victim (if there is one) that everything said in this whanau meeting will stay in this meeting and privacy will be respected. The same respect for privacy should be accorded to the offender.*

Stage Two
Te Hui Whakatika
Beginning the Restorative Conference

Preparation

The facilitator needs to establish a venue and time for the hui. This should not be somewhere that is intimidating for the victim or the offender. It is advisable that the venue is not one that is reminiscent of suspension hearings. Sometimes a school marae is suitable. Sometimes a community centre off the school property works best. The relevant community of care needs to be informed of the venue and time for the conference.

Waiting facilities need to be considered before the meeting begins. It may be necessary for the offender and victim and their respective whanau members not to be left together in the same room while waiting.

The facilitator should set up the room in a horseshoe arrangement so that everyone can see the whiteboard. Consideration needs to be given to who will sit where in the hui. The victim and offender both may need to sit near their whanau members and support persons. Teachers should avoid sitting in a block. If there is more than one facilitator they should not sit together.

A whiteboard and markers will be needed in the conference and someone will need to be appointed to take notes of what is decided other than the facilitator.

Beginning the hui

It is good to open the hui in a way that creates an atmosphere of respect and seriousness and makes it a sacred space. Hence a brief powhiri or karakia may be held. If a kaumatua is present he or she should be invited to open the conference in this way. The form of this opening should establish a connection with the cultural background of the young person and his/her family.

The facilitator should then explain the purpose of the conference and outline the guidelines of what will happen. Here is an outline of what should be covered in this introduction:

- *These meetings are about restoring respect and when people ask you or want to know about what went on here, we would ask you to remember to respect what was said here and the privacy of any personal material that is discussed here.*

- *This is not a suspension hearing. Also, we are not a court. We are not here to decide whether someone has done anything wrong. Nor are we here to sentence anyone to a punishment.*

- *The reason we are here is to talk about what happened, to learn something about how we are all affected by what happened and hopefully to work out what can be done to make amends.*

- *This hui is not about blame, although it is about making things right.*

- *This is a voluntary process. We understand that everyone here has agreed to participate voluntarily... Is that correct?*

- *Everyone here has the right to speak in this meeting/hui. There will be time for each person to speak, so please don't interrupt when someone else is speaking.*

- *This meeting could take up to 2 hours. We have a process that we are going to follow and if we don't manage this process well we could end up sitting here for hours, so I am going to move the process along and would like your agreement to that.*

At this point the facilitator should speak to the ethos of the meeting. One way of doing this is to write the following statement on the whiteboard as an expression of the intended ethos of the hui. Everyone is invited to join in this spirit.

"The person is not the problem; the problem is the problem."

The process of warming everyone up to the task of the hui then shifts to a focus on who is here. In order to establish an atmosphere of trust and constructive work people need to introduce themselves and to know who they are talking to. Introductions or mihimihi follow. Each person is invited to speak and after introducing themselves to express their hopes for what will come from the conference.

- *As you introduce yourselves to the meeting, can you each say your relationship to this issue and <u>one</u> thing that you hope will come from this hui.*

Some young people may need some help to express their hopes for the hui. This can be done by the facilitator asking them a couple of questions.

Stage Three
Te Hui Whakatika
Mahi Phase I
Establishing the *Take*

There are three main tasks to achieve in this next phase of the conference. We have called this phase "establishing the *take*". The first phase is to facilitate the telling of the story of what has happened including what led to the calling of the Restorative Conference. The second task is to name the problem as everyone understands it. The third task is to map the effects of the problem on everyone present.

Telling the story

Because we do not want the focus to be on debating the correctness of the story, this should have been established in advance of the conference. The offender and the victim should have had their say already in forming this story. At this stage someone from the school needs to speak to this task, tell the story of what happened, refer to relevant background history and explain why the school was considering serious disciplinary action.

This task is difficult for the facilitator to do themselves and may be incompatible with the role of facilitator. Therefore we recommend that the school principal or deputy principal, or perhaps a dean, should undertake this task. There should be no softening of the seriousness of the situation in this account. The rest of the conference will benefit from a blunt statement about how serious the situation is at this point.

After the principal or her/his delegate has told the story of what happened, the facilitator should ask the victim first to agree that this is a fair account of what happened. When this agreement is established the offender should be asked the same question. It is important not to get sidetracked into an argument at this point. Rather, the offender should also be asked to state his/her willingness to make amends for what has happened?

If the offender is determined to blame someone else, especially if that someone is the victim, then there is a serious question about whether the Conference should proceed. It may serve the purpose of making the victim into a victim all over again. One option is to halt the meeting for a few minutes and talk with the offender privately about this issue.

Keep the focus on the specific incidents that have led to the hui/conference and bring people back if they wander off into generalized comments that are not relevant.

Key questions:

- *What brought us to this place? How did it come about?*
- *Why was the school thinking of serious disciplinary action?*
- *Do you accept that as a fair account of what happened?*
- *What were you thinking when you did that?*
- *Was there a difference between what happened and what you intended to happen?*
- *Are you willing to try to make amends/set things right?*

Naming the problem

The next task is to agree on how to name the problem. This is part of the process of separating in everyone's thinking the person from the problem. It is an embodiment of the narrative therapy principle of externalising the problem (White & Epston 1992; White, 1989).

The facilitator should draw a circle on the whiteboard and ask everyone to contribute ideas for how we should name the problem. Stress that each person's perspective is different and everyone present should be asked to name how the problem appears from their perspective. The facilitator should seek to clarify each perspective until a word or brief phrase can be established and this should then be written in the circle.

It is important to ask everyone to contribute to the naming of the problem, especially the offender and the victim. Be careful to see that the name for the problem is a thing not a person. Care should be taken that what gets written in the circle is not a description of a person. Labelling of personal qualities and descriptions of personal deficits should be avoided. For example, "hitting" may be described as the problem rather than "a violent nature".

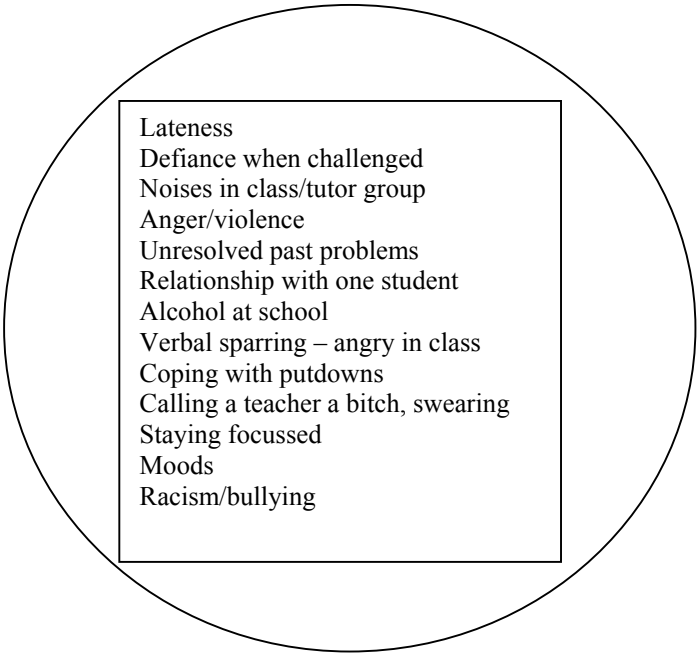
When everyone has contributed to this naming process the facilitator should say something about how the problem includes all of these things. There is no need to agree on a single name. The collective description in the circle includes multiple perspectives and this is how it should be. It is likely to be more accurate through remaining diffuse than it would be if reduced to a single name.

However some response to the names generated is possible. The facilitator can ask which names appear to people to capture the problem best. Two or three may well stand out for some people. These names can be underlined and used in the ongoing conversation.

Key questions:

- *How could we describe in a few words what the problem is?*
  If we could give a name to it, what would that be?
- *Which of these names fits best with all that we have heard?*

Example:
Naming the Problem



Mapping the effects of the problem

The next step in the process is to gauge the impact of the problem. The aim here is that everyone should get a chance to express how they have been affected by the problem. At the same time everyone gets the chance to learn about how others have been affected. This inquiry should not be conducted in a punitive tone but in a respectful and curious way.

The facilitator begins by drawing a series of spokes out from the circle in which the problem has been named (see diagram). Then s/he asks everyone to think about how the problem that has been named, when it is around, affects each of them. Participants should be invited to speak for themselves rather than for other people.

The effects of the problem may take a variety of forms:

a) They might be feelings such as anger, fear, guilt, shame, disappointment.
b) They might be reactions to what someone else does or says.
c) They might be physical experiences like headaches, bruises, sick feelings.
d) They might be thoughts or intentions or decisions.
e) They might be actions or behaviours.
f) They might be events in a relationship.
g) They might be social effects like friendships ending, stand-downs, other people's responses.
h) They might be things that have happened, that are still happening, or that are expected to happen if things keep going in the same direction.

The victim's voice needs to be heard strongly in this stage. The facilitator should begin by asking the victim to speak first. The victim's experience should be given plenty of opportunity to be heard by repeatedly asking "What else has this problem done to you? How else has it affected you?" Notice how the language is important at this point. The work done to separate the problem from the person and to speak about it in an externalising way needs to be built upon now. The facilitator must keep on referring to the problem as an "it", a "thing" or referring to it by name (as settled on previously). This conversation should not be allowed to become the effects of "Johnny" on the victim. This would rapidly descend into a blame session.

If there is a person who is not present but who has been affected by the problem they can still be represented in such a discussion. Someone may report what this person has said previously or read out a message that this person has sent. Or those present might even speculate about how this person might have spoken about these effects if s/he were present to speak.

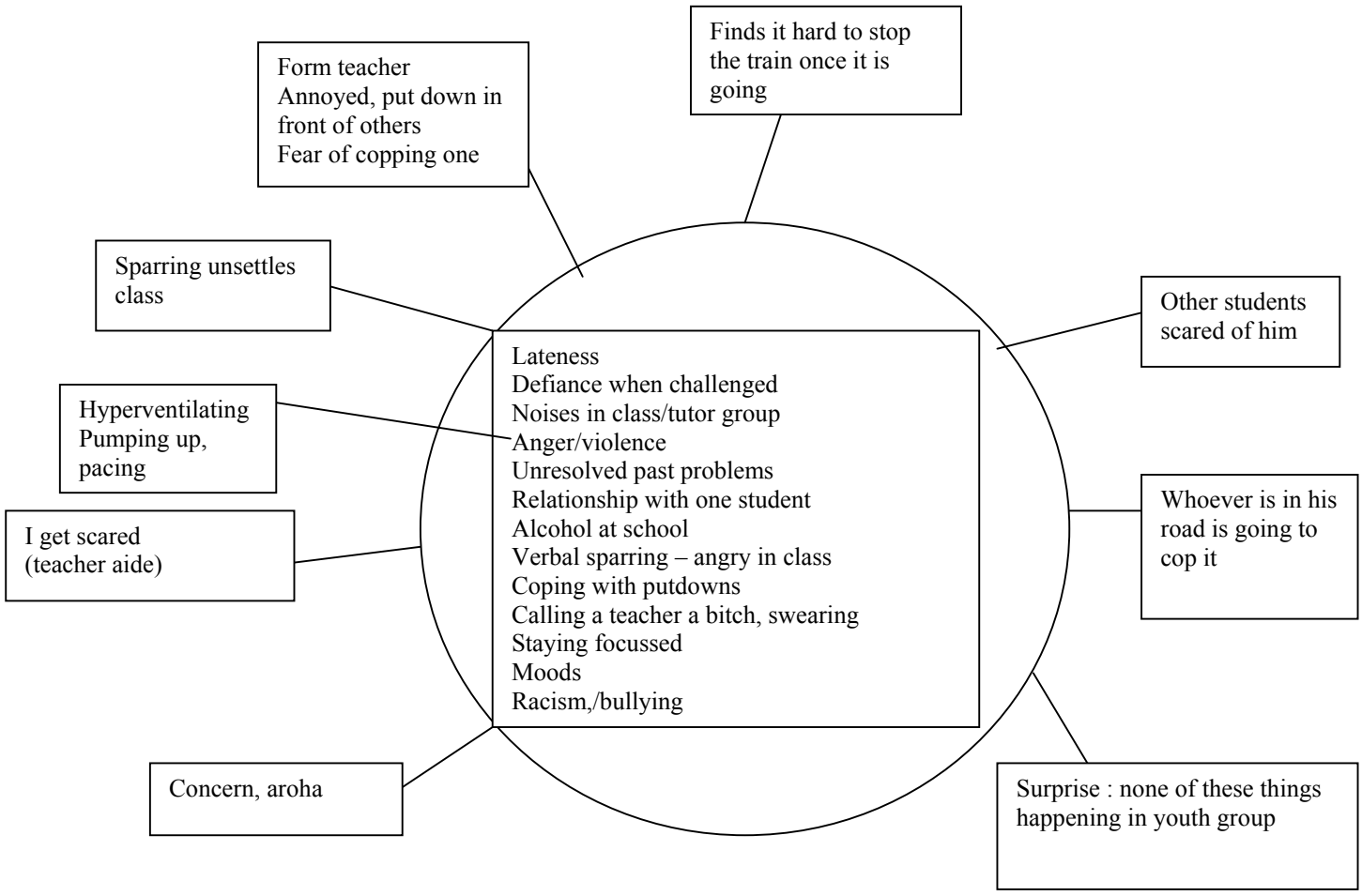
Those who are present should each in turn be invited to speak. The facilitator's task at this time is to listen carefully, to check that the person's experience has been heard correctly and to write down on each of the spokes drawn out from the circle a word or phrase that represents the effects of the problem. You should be aiming for breadth of coverage rather than exploring the depths of the effects on any one person.

It is important too that the effects of the problem on the offender are asked about as well. This helps separate this person from the problem.

Key questions:

- *When this problem is present, how does it affect each of you?*
- *If … were here what would s/he tell us about the effects of the problem on her/him?*
- *What else…?*

Example: Mapping the effects of the problem



Stage Four
Te Hui Whakatika

Mahi Phase II
Seeking out the New Shoots

In this phase the focus shifts from the past to the present. What has been said already will have had an impact on everyone. The object of this phase is to mark the changed perception that is brought about for everyone by hearing the richer description of what has happened and its effects.

The facilitator's task is to ask some questions that create conditions for "new shoots" to grow. The invitation is for everyone to learn something new about the effects of the problem.

Key questions:

- *How are you (young person, victim, others) feeling now, after hearing what everyone has said?*
- *Is there anything here (on the board) that surprises you?*
- *What are the things that contribute to keeping this problem alive? Can we all think of some things?*
- *Would anyone do anything differently next time?*
- *Are you (all) happy about the effects that this problem is having? Would you like them to stop or don't you mind if they continue*?

Seeking out new shoots

No problem is so consistent that there are not gaps in it. The aim of this phase of the process is to identify the exceptions to the problem story. These can help complete a much thicker description of the situation than one that includes only what is problematic. These exceptions can introduce a much more hopeful picture built on what has been left out by concentration on a problem-saturated story. They can also be the openings to the story of difference. This story can feature some real changes that will soon be built into the plan for the future.

At this point the facilitator draws another circle on the whiteboard and a series of spokes out from it. There is a difference in how to work with this circle from the first one. In the mahi phase we worked from the inside of the circle outwards. This time we work from the outside inwards. The words attached to the spokes will be written up first and the participants will then tackle the task of figuring out what goes in the middle.

The facilitator asks about what everyone knows about this young person, the offender, that does not fit with the problem story (pointing to the first diagram on the whiteboard). It may be necessary to ask some specific questions to elicit this information. For example, if the problem story describes the offender as restless and distracted in class, are there any gaps in this story where his/her behaviour in class would be described as focussed and concentrating well? Or if the problem story describes the offender as rude and disrespectful, have there been any examples of

her/him being respectful and considerate? These examples may come from home or school or in youth club or on the sports field.

Once one of these exceptions has been identified the facilitator can ask for any other examples of this kind. When several examples have been mentioned, the facilitator can ask people to speculate on what qualities or talents or abilities or competencies these experiences might suggest that this young person has. These ideas can be written in the centre of the circle as alternative descriptions of the person to the descriptions fostered by the problem story.

The young person can be asked at this point about their knowledge of how to do these things.

Key questions:

Finding exceptions

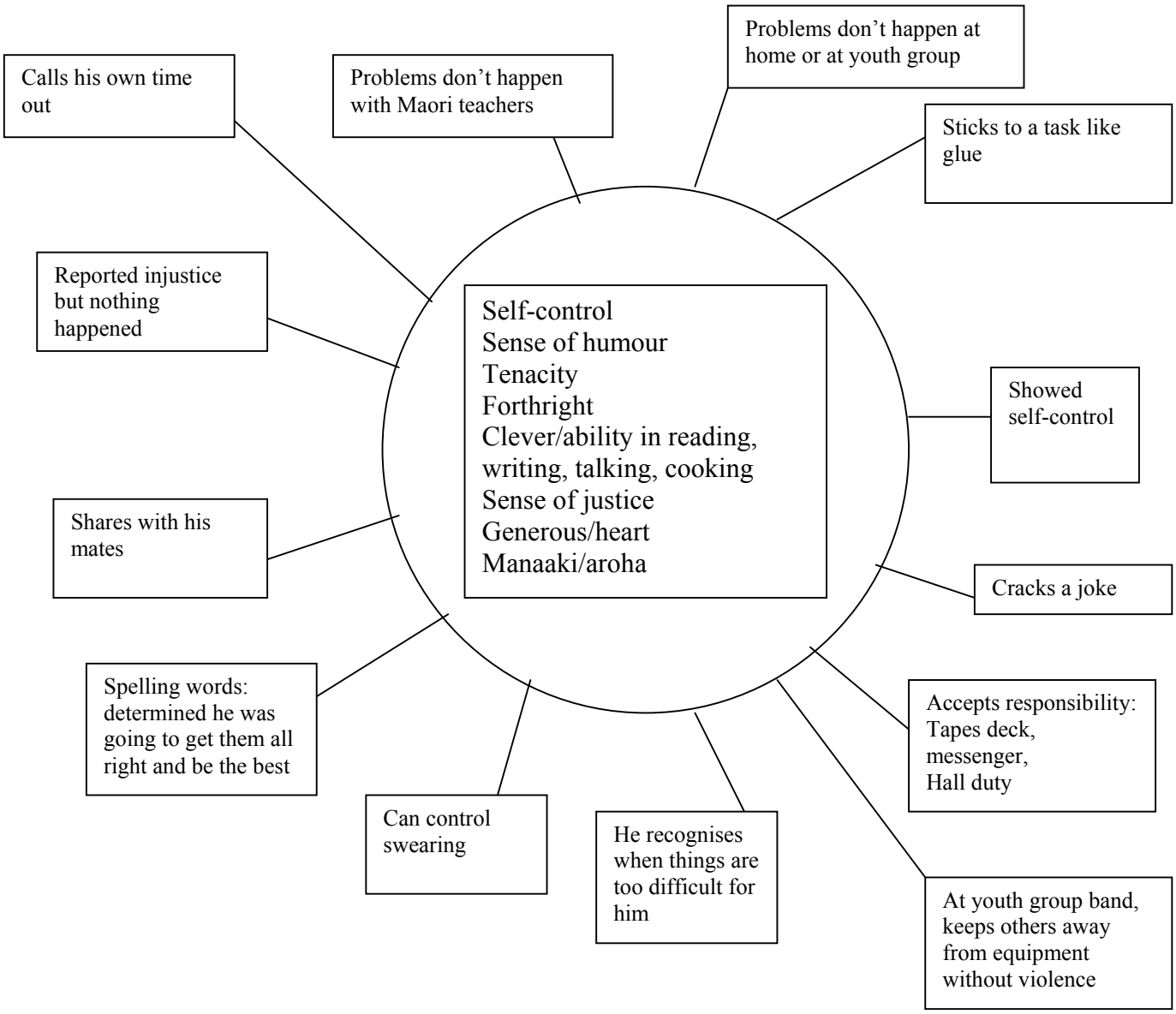
- *When has this problem not been around?*
- *What settings does this problem not happen in? When does it take a break, disappear?*
- *What has this person done that does not fit with the problem?*
- *How did you do those things?*
- *Has there been any desire to make amends, any signs of change, expressed?*

New descriptions

- *What does this problem not let us appreciate about this person?*
- *What qualities, strengths does he/she have that the problem has been masking?*
- *What do these things suggest about this person that the problem story made it hard to see?*
- *Who would not be surprised to hear about these things?*

When a series of exceptions have been mapped onto the whiteboard diagram and a number of words describing the young person in more positive ways has been elicited, it is time to take stock of this map and to compare it with the other map of the problem story. Everyone can consider this. The facilitator can ask about the difference between the two stories. What has everyone learned by seeing these two stories side by side? Crucially, which story does the young person who is the offender prefer? Which one does he or she want to emphasize more in the future? Such questions can lead into the next step, which is about building changes for the future.

Example: Mapping the alternative story



Stage Five
Te Hui Whakatika

Forming the Plan

Note: **If anyone at this stage of the meeting is still wanting to talk about punishment, then it may be that they have not had enough opportunity to be heard. In this case it is necessary to go back a step and ask them to speak about what is on their mind.**

Thinking about the future

The facilitator's task now is to direct the meeting towards a future focus. This should always occupy the last twenty minutes at least of the allotted time for the conference. Ask everyone about the implications of the knowledge that has been collected for how to address the problem. Write these ideas on the whiteboard as well.

Key Questions:

- *What can you see written on the board that we can build on to move forward/set things right/ make amends?*
- *What does all this mean for setting things right, restoring everyone's mana?*
- *What needs to happen now? (Make sure this includes the victim's needs too.)*
- *What will a plan for the future have to include?*

Forming the plan

The meeting needs to decide on the process for developing a plan for the future. It may be that there is not enough time to complete this process at the conference and some representatives from the hui may be delegated the task of formulating the plan. If there is a victim, however, it is advisable for some of this planning to take place in the meeting. Usually the meeting can suggest the main ideas that will go into the plan for the future and a smaller group can meet to discuss its implementation.

Key questions:

- *Will it be right now or will it be later that the plan for making amends is developed?*
- *Who wants to be involved?*
- *Who needs to approve of the plan (on behalf of school, whanau, community) once it has been drawn up?*
- *Who will do what?*
- *The victim (if there is one) needs a voice here. They can be asked, "What will it mean to you if this plan is carried out?"*
- *When will the plan be reviewed?*

Ingredients of the plan

The plan needs to be about people taking up responsibility rather than being punished and required to do things against their will. Not all the responsibility will lie with the offender either. In some conferences, problems that need addressing in a class, or in the school, or in families are revealed. The plan might include teachers and administrators making commitments to address these issues.

It is important therefore to decide in writing the plan:

- *What will be the school's responsibility?*
- *What will be the whanau's responsibility?*
- *What will be the young person's responsibility?*
- *What will be others' responsibility?*

Here are some principles for writing a plan for the future:

- *It does not have to be complete at the end of the hui/conference.*
- *It should be detailed and specific.*
- *It should be understandable to all parties.*
- *It should be time specific.*
- *It should have a clear date of closure.*
- *It should be culturally appropriate.*
- *It should be reality tested.*
- *It should be generated by the participants rather than dictated by school authorities.*
- *It should ensure safety for all concerned.*
- *It should relate to the nature of the offence(s).*
- *It should specify who will supervise the carrying out of tasks.*

Reviewing the working of the plan

The plan for the future should include a process for reviewing what has happened since the hui. This follow-up is crucial to the success of the Restorative Conference. Without it much good work can be undone. Therefore it needs to be clear exactly how this will happen and who will be responsible for it at the end of the hui.

When this review takes place, the aim should not just be the perfunctory one of checking to see that things have been done. The aim should be to further the development of the story of change. This may include noticing things that have happened that were never part of the plan but have developed since the hui.

Key questions to guide the process of review:

- *What has worked/not worked?*
- *What difficulties have arisen?*
- *Have the responsibilities promised in the plan been taken up?*
- *Have any new developments taken place that were not predicted in the plan?*
- *Are there any changes to the plan that need to be made in the light of experience?*

Celebrating achievements

Achievement in the undermining of or exclusion of a problem does not come by accident. It is invariably the result of effort and resistance on the part of those affected by the problem. By drawing attention to those efforts, we affirm the work of the people involved and make it more likely that those resources of strength will be available should another problem try to affect them again.

Here are some ways to celebrate achievements:

- *Letters acknowledging progress*
- *Certificates to mark completion of the plan*
- *Rituals to celebrate the changed status*
- *Deliberately inviting a young person who has made some efforts to change to give advice to someone else or be a consultant to help someone else who is facing a conference.*

Te Otinga/The Ending

The facilitator should draw the hui/conference to a close summarizing the positive aspects of the conference and thanking everyone for their participation. The details of the decisions about how to take the process forward should be reiterated as well.

Participants should be asked for any final comments (but not everyone need speak). This provides a final opportunity for making meaning of the events of the conference. It may lead to some moving or poignant expressions of reconciliation, of regret, of intentions for change, of apology, of forgiveness.

Finally the kaumatua or elder can be asked to close the hui in the same way that it was opened, with a karakia (or other culturally relevant process).

Hakari/afternoon tea/supper

It is important at this stage for people to relax together after they have been working hard for two hours. The provision of a hakari or afternoon tea at the end of a hui helps to enable some personal conversations to take place that break the spell of the conference and assist the transition back into daily activity. Family members may even take the opportunity to make personal connections, convey apologies, build relationships with teachers, all of which can further the work of the conference.

PROCESS AIMS OF A RESTORATIVE CONFERENCE

- To ensure that those made victim by a problem get an opportunity to express their concerns.
- To map the effects of a problem so that everyone comes to a fuller understanding of its implications.
- To identify and name a problem in a language that helps everyone address the problem.
- To create an alternative description of the person who has offended.
- To develop an understanding of things which undermine the problem.
- To create a context in which the making of amends can occur.
- To set a path for significantly changed relationships.

Some Objectives to Keep in Mind

- We are committed to restorative justice rather than retributive.
- Conversation should be inclusive rather than adversarial.
- Widen rather than narrow the range of voices having an input into the problem, including the voices of the victim(s), teachers, whanau/family, community and the young person.
- The victim's voice should be heard and needs met. He/she should be encouraged to tell their story in a way that reveals the emotional harm and hurt caused by the offending.
- Treat the young person who has offended with respect. Direct efforts to condemn and shame should be avoided.
- Treat all persons as whole persons: taha tinana (body), taha hinengaro (mind), taha whanau (family) and taha wairua (spirit). This includes victims and offenders and teachers.
- Acknowledge cultural principles, for example the tuakana/ teina principle, in regard to speaking rights in the conference.
- The process should aim to transform the grievance rather than fix problems.
- Avoid blaming language, and at the same time encourage the taking of responsibility and stepping into an attitude of whakatika/making amends.
- Responsibility should be taken up rather than placed on people.
- No one should be further harmed by the process.
- Use externalizing language. This involves naming the problem in ways that leave parts of the young person that are not captured by the problem. "The person is not the problem; the problem is the problem."

SECTION C

SOME THEORY BEHIND THE RESTORATIVE CONFERENCE PROCESS

INTRODUCTION

As described in Sections A and B, the process of community conferencing aims to bring together the young person and their family, the school, the community and the victim of any breach (if a victim exists) and their family, to talk about and deal with the problem. The process finds its roots in Maori and Pacific Island systems of justice and in victim-offender mediation processes used throughout the world. The process of conferencing also finds its more recent origins in New Zealand in the attempt to find alternative ways to involve the young offender, his or her community and the victim in determining what should be done to address youth crime, for example in the Family Group Conference and Restorative Justice. This trial has also utilised the ideas of narrative counselling developed in Australia and New Zealand. These principles have been combined in this trial to enhance the results achieved in other projects. Each of these strands has an important role to play in the development of school-based Restorative Conferencing.

From these sources we have developed a process that reflects a mix that will make a difference for schools and young people. In Section B there is a description of a fictitious conference, followed by a full description of the process. In this Section we provide an introduction to the theoretical underpinnings of the process. This theoretical overview is followed by details of the Principles underlying the process, and some notes about the concepts that are essential to the restorative conferencing programme in schools.

We provide this background in the belief that those who undertake training in using this process will be best served if they understand how these processes work, rather than trying to use the process outline as a kind of “recipe”.

THEORETICAL UNDERPINNINGS

Restorative Justice

The criminal justice process addresses offending in a way that fails to meet all of the needs of victims and offenders. The process neglects victims while failing to meet its express goals of holding the offenders accountable and deterring crime (Zehr, 1990). Attempts to tinker with the process have not made long term advances. The reason for the problem lies in the current justice paradigm and the assumptions that underlie our view of crime and justice (Zehr, 1990). While the system may not yet be ready for a total overhaul, there is a need for a review of the lens through which we view the process. It is not a case of looking for a vision that will encompass all situations. It is an opportunity to rethink the way in which we address offending and its effects in this country in appropriate cases.

With rare exceptions, victims of crime are placed in a totally passive position by the criminal justice system. Often they do not even receive basic assistance or information (Umbreit, 1988). Crime victims frequently feel powerless and vulnerable. Some feel victimised twice - first, by the offender and then by the justice system that often does not address their needs.

Rather than defining the state as the victim, ideals of restorative justice define crime as a conflict between individuals in which their relationship is at the centre stage. Restorative justice focuses on the harmful effects of the actions of the offender on the victim. Accountability is no longer determined by an application of the law. The offender is required to meet the victim of his crime, to hear the full extent of the impact of the offending, and accept responsibility for his actions. Victims are provided with an active role in assisting the offender to understand the effects of the crime on them. The parties themselves (rather than a third party) determine what should happen to make amends. This represents a radical change to the way in which "justice" is delivered in criminal cases. It is a process that can transform disciplinary processes in schools.

Most would agree that the offender must be held accountable. Under the current justice system this means experiencing punitive consequences. However, this definition of accountability has proven to be unsatisfactory. From a restorative perspective what is needed is for the offender to be encouraged to develop an understanding of what he or she has done (that is, what the crime has meant to the victims and acknowledge his or her role in it). Offenders must be encouraged to make amends for the harm caused and participate in finding ways that this can be done (Zehr, 1990).

The offender must be invited to accept responsibility for his or her actions. This means more than merely admitting to "guilt". Even those who admit guilt are asked only to admit that they committed the offence and then to give reasons why they committed the crime. What I (Stephen Hooper) discovered as a convenor of conferences in Queensland is that offenders tended to follow the same pattern - "Yes I

admit to doing it but the reason I took the car was...". This process of seeking a reason for their actions is part of a wider community view that the key is to find out why the offender did what he or she did. Once the community has "the reason" there is an expectation that society can address and fix the problem.

However, many explanations of offending in effect promote an avoidance of responsibility by the offender and instead implicitly invite acceptance of responsibility by the victim or others affected by the offence (Jenkins, 1993). Responsibility may be attributed to external events or stresses, the actions of others (such as the victim) or medical/psychological factors. These attributions share one common feature: they are events over which the perpetrator feels he has little control or influence. If the offender "discovers" the cause and attributes blame and responsibility to it he effectively reduces his culpability and his responsibility for the hurt. This in the end is unhelpful in resolving and ending the offending. This approach can also promote unhelpful solutions and often leaves victims carrying the burden of shame, guilt and responsibility for their own victimisation (Jenkins, 1993).

The restorative justice process aims to move away from the need to discover the "true cause" of the offending, towards an exploration of the multiple factors which underlie the offending. While the various contributing factors do provide part of the picture, it must be acknowledged that each individual is unique and no single factor is the determining cause (Van Ness, 1986). While drug addiction, unemployment or historical backgrounds may limit the number of choices available to offenders, they have still made choices to offend.

The restorative model of justice views crime as an interpersonal conflict between the victim and the offender that needs to be addressed (Zehr, 1990). Where retributive justice defines crime as a violation of the state (or in this case, the school) restorative justice defines crime as the violation of one person by another. Proponents of restorative justice argue that the response to crime must begin where the problem begins, within relationships. Crime is not first an offence against the state or the school; it is an offence against people. Even if there has been no previous contact, crime creates a relationship as members of the same community. Since the emotional effects on the victim of crime are very similar to those of parties to a personal conflict, in many cases the problems can be resolved only by a direct meeting between the parties (Marshall, 1988). The central goal of restorative justice is therefore the healing of the relationship damaged by the crime. This occurs through facilitating a meeting between those involved in the crime (Jubilee Policy Group, 1992).

The Psychology of Mana

The conference holds as its highest value what has been called "the psychology of mana" (Macfarlane, 1998). Mana is a concept that encompasses the idea that every person, no matter who they are or what they have done, has a right to be treated as a person who has personal dignity, and who deserves to be cared for (manaakitanga). He is someone's son, someone else's grandchild, and his community of care (whanau) is presumed to want the best for their mokopuna, in spite of everything.

This does not mean that we refrain from condemning actions that are wrong. But it does mean something that is crucially important to the Restorative Conference, namely, that every person involved is treated as a sovereign person – as someone who is *able* to take responsibility for their actions (even if they do not do so). This is a principle that applies to both Maori and Tauiwi participants, on both "sides" of an issue. This approach to problems invites questions about what is preventing a person from acting differently - yet at the same time, it invites all persons to positions of responsibility. The theory of this is that only when people are called into positions of responsibility, treated as if they are able to take up such an invitation, are they in a position to respond positively. The antithesis of the psychology of mana is that a person who perceives the people present speak about him disparagingly, or speak about him as if he is not present, or leave him out of the conversation altogether, will take up an oppositional stance in self-defence.

The Project Team recognised the wisdom of King Tawhiao, "Kotahi te kohau o te ngira" (There is only one eye of the needle). This means that there is room for persons of all races and all backgrounds to come together to weave a multi-coloured thread. It is important to encourage all participants to recognise and where possible come to understand the cultural and family circumstances of each person, and that these must be respected at all times.

Narrative Approaches

The way we are developing narrative therapy at Waikato involves a strong invocation of social constructionist ideas (Burr, 1995). This theory is built on two central pillars:

1. The idea that knowledge can be claimed on many different grounds. Thus we expect that different people will see the world differently – they will have different 'realities'. Every person at the conference will see the situation differently, and each perspective is valued. None is “the truth”.
2. A personal/political commitment that all people have the necessary capacities, strengths and wisdom to take charge of their own lives. This means that facilitators approach the conference with an unshakeable belief in the young person’s capacity to understand and improve their situations themselves. But it does not mean that the young person never needs support.

The implications of these ideas are far-reaching:

3. The stories told by different participants could well contradict one another. This is not seen as an issue, as it is not the job of the conference to establish “the truth”.
4. Some stories in a person's life are rehearsed a lot and some are less often heard. Those which are often heard come to be taken as dominant and may even be thought of as the only possible story or way of speaking about certain things. So for example the young person may come to the conference with a strong history of wrong-doing, and this will be very hard to shake. However, these stories are never all there is to know about this person. There will always be other stories that contradict the dominating bad story. The facilitator may have to work hard to bring such stories to light, but these

"alternative stories" are the "sparkling moments" (White, 1989) that offer hope.

Some ways of speaking can alienate people so that they do not feel included in the conversation. Thus we try to speak in inclusive language, as experience has taught us that this usually has therapeutic outcomes. With very little trouble, the same message can be conveyed in a more invitational way.

The Balance of Power

There are different types of imbalances which are characteristic of conferences. The conference is not a level playing field!

"Moral" Imbalance.
The young person comes to the conference having committed unacceptable acts which have created victims. The victim therefore has a "righteous" or "moral advantage" over the young person. This may become manifest in the conference in terms of "righteous indignation".

Imbalance of Suffering.
The victims may have experienced significant suffering as a result of the breach of school rules. Often victims of the breacher will describe their experience using the same words and language as victims of serious violent offences. The young person may very likely have experienced considerable suffering in his/her life. However, the convenors should be careful to avoid allowing the two issues to be confused or equated. Social or economic factors may partly explain aspects of the young person's behaviour, but they should not be seen as excuses.

"Power" Imbalance.
At the time of the offence the young person was in the position of power, whereas the victim was powerless. However, at the time of the conference the power has shifted to the victim. Apart from the issue of "moral advantage", other issues contributing to this imbalance include:

- The ability of the young person to articulate their story and their needs.
- The ability of the young person to understand the issues and what is being said.
- The material and financial resources of the young person.
- The number of adult figures in the conference.
- Cultural and gender issues.

At all times in the conference it will be necessary to address and confront the issue of power imbalance for the young person. This must be done with skill and sensitivity. In the presence of parents and victims the young person will usually feel intimidated. This may manifest itself in different ways. The young person may withdraw, not talk or look at the floor. Alternatively, and especially if other young people are present, the young person may try to act tough, unrepentant and impenetrable.

Good use of your skills will be key to enabling the young person to participate fully in the process. In the process of a successful conference, the young person will begin to hold up their head and participate more freely.

The young person has a story to tell. The more they feel that their story and their feelings are acknowledged the more likely they will own responsibility, and the more likely the conference will have a positive outcome.

PRINCIPLES

The aim of the process of restorative justice is to bring the victim, the offender and the community together in repairing the injuries caused by the offence. The process is based on a number of assumptions about the nature of crime and its effects on the victim, the offender and their communities.

A primary principle of the Group Conference must be to avoid further destruction of the mana of <u>all</u> participants.

Offenders must be held accountable and responsible for their actions and for making amends.

Our aim is to develop models of intervention that assist the offenders to accept full responsibility for his or her behaviour (Jenkins, 1993). In order to accept responsibility, the perpetrator must acknowledge the existence and significance of the offending and understand the potential impact of his actions on the victim and others. The offender must accept his or her culpability for the events and bear the full onus for ceasing his or her actions (Jenkins, 1993). This must occur in a way that does not attempt to justify the behaviour. The offender must accept responsibility without minimising his or her role in the offending.

Our experience in conferencing indicates that this open discussion will occur only if the offender genuinely acknowledges his or her role in the offending without attempting to "pass the buck". Without showing genuine remorse the victim will tend to react with anger aimed at the offender and speak in terms of the need for punishment. Once this occurs the offender shuts off and will not listen to the victim's account. All of the benefit of the meeting is lost if the offender does not see the problem from his victim's perspective. In order for the process to work the first vital step is a genuine confession of a mistake made and an expression of remorse. Without this acknowledgment the process is less effective.

The problem is the problem

It needs to be pointed out at this juncture that this is not to suggest that the offender is "bad". The primary credo of the process is the ideal that "the person is not the problem, the problem is the problem" (O'Hanlon, 1994). What this statement means is that the offending is externalised and separated from the individual involved. The offending is not portrayed as an intrinsic part of the offender's character that can never be changed. Convenors of the conferences are encouraged to avoid attempts by the offender or their family to attribute blame to the offender by stating that the offender himself is wholly "bad". It is the offender's actions that are the problem rather than an inherent problem with the offender. Accordingly an issue in all conferences is, what has stopped or restrained the offender in the past from taking responsibility for his or her behaviour (Jenkins, 1993).

The focus is on making amends

In addition to taking responsibility for his actions and attempting to understand the victim, the offender must also accept responsibility for deciding what needs to be done to remedy the situation (Zehr, 1990). Therefore the offender has the additional obligation to attempt to "make things right" for the victim. The proponents of restorative justice argue that the justice system should encourage offenders to take active steps to make amends. No longer should offenders be passive actors for whom matters will be determined. They must take steps themselves to redress the imbalance created by the offending. The corollary of this redressing of the balance is the ability of the offender to achieve a sense of closure (Zehr, 1990). If the process runs well it is a chance for the offender to leave behind the mistakes of the past and start afresh.

Transform grievances rather than fix problems

There is something about hearing others' understandings that fosters new thinking in the hearers. The conferencing process is deliberately arranged to achieve this. For this reason, responsibility should be taken up rather than placed on people.

The victim's voice must be heard

The incident that led to the conference will probably have created a sense of violation. Not all conferences have a clear victim. Sometimes the victim could be the school, or the Principal or Dean, or even members of the community, may take up a position as the "wronged one". Whatever the case with a particular incident or conference, the event will have had the effect of upsetting someone's (the victims') belief that the world is an orderly and meaningful place to live (Zehr, 1990). All members of the school community need to feel that they are in control of their lives and that if things go out of control that they have the ability to deal with or manage a crisis (Van Ness, 1986). When a crime has been committed against a victim, someone else has taken control of their lives (Zehr, 1994). Victims may feel helpless and vulnerable. Self-blame can become a coping mechanism allowing victims to take back control by finding the fault in something they have done (Zehr, 1990).

Because of the psychological effects of such a violation, victims need a chance to speak openly about their feelings of anger, fear and pain (Boers, 1992). They need to be heard and to have their stories acknowledged. Telling their story may in fact be more important than any tangible outcome, a chance to feel that the victim's views matter in determining what should happen in their case. Somewhere in the process the victims need to feel vindicated. They need to be assured that what happened to them was wrong and undeserved. It is essential that this be acknowledged by the offender without any attempt to justify or excuse his or her behaviour. The victim needs to see the offender accept responsibility for his actions. This means that the offender must acknowledge that what he or she did was wrong. In many cases this vindication required no more than an apology, an acknowledgment that what was done was wrong and an assurance that it will not happen again. The experience of a number of conferences is that a preferred form of apology is "Yes I did it, I'm sorry for what I've done, and I want to sort things out". The facilitator may need to work for each element of this apology separately. It is important to notice that this is NOT THE END of the conference, but a necessary step towards making amends.

From the earliest cases it was clear that if the offender tried to justify his actions "yes I did it but the reason I did it was..." the victims would react with hostility. The victims seemed to watch the offenders closely for any sign of insincerity. If there is any sign that the offenders are trying to justify their actions or blame another person, the victim would usually react with a greater punishment focus. We are forced therefore to adopt a process that aims to ensure that the offenders accept responsibility for their actions without "sliding" out from under responsibility. This would appear to be one of the keys to the success of the process. It may not be possible to get such an acknowledgement fully expressed at the beginning of the conference, but the sense of wanting to make amends should grow as a result of the conference process. If this does not occur, the conference should be abandoned.

Forgiveness takes time

In order to recover, victims need to have an input in determining the outcome that will make amends for the offending. Victims need to have the privilege of an experience of forgiveness. This term is probably one of the more misunderstood principles of the restorative justice process. It is used here to mean letting go of the power of the offence and the offender over the victim. It means no longer letting the offender and the offence dominate. It allows release from the emotional, spiritual and physical ties preventing the victims from leaving the offending behind. It is an act of empowerment. It must also be understood in its spiritual context as an act of our spirit. It can not be forced and it takes time. It is a privilege that only the victim can bestow on the offender. It will usually occur only if the victim sees genuine remorse from the offender.

The victim's and offender's communities must be involved

In establishing the school-based conferencing scheme we are conscious that two groups have been ignored in the past in other schemes. These are the families and friends of the victims and offenders. It is important that the ultimate decision both to participate and to resolve the situation rests with the parties themselves.

The victims' families play only a limited role in the traditional suspension process, and may have an even more minimal role in other disciplinary processes within the school. These families are thus unable to deal directly with the effects of the offending on them and their relationship with the victim.

The other community involved directly in the process is the offender's community. Because the experiences of the offender are developed in a context in which family and community are involved, it is essential that they support the initiatives to bring about change. The shame also affects the family as a whole. While great care must be taken not to allow the family to remove responsibility from the young person, this impact on the family needs to be discussed and acknowledged.

Having both the victims' and offender's families in the conference also serves to emphasise to the offender, in particular, that the effects of his or her behaviour goes beyond the surface problem. The offender's friends and families usually express concern about his or her future. It is an opportunity to understand that the victims' families are also affected by the offender's actions.

Tuakana/Teina

In Maori society it is usual for older siblings to speak on behalf of younger siblings or cousins. Indeed, this is expected. It can be a sign of arrogance to speak in the presence of someone who has tuakana status in relation to you. Thus it is of primary importance a) to recognise this possibility, b) to invite people to the hui who can speak for the young person, and c) within the hui itself, to invite people to speak in appropriate order. Sometimes the young person will only speak if asked to by their tuakana or their kaumatua.

Include the young people's friends

As already noted care must be taken in determining who are the greatest influences on the lives of the offender and the victim. It is sometime necessary to consider the influence of the offender's friends in the offending. If the offender's peers are an important part of the context for the offending, it will be difficult for him or her to leave offending behind if this group does not buy into the offender's desire to change.

Focus on the actions and not the person.

For the conference process to be restorative it is crucial that the conference denounces the behaviour while at the same time the young person is treated with respect and feels safe enough in the presence of so many adults to open up and express themselves.

Spend time developing a plan and recruiting support for it

The objective of the conference is to develop a plan that everyone present agrees will make amends, and that is do-able. Sometimes it is necessary to develop a sense of what is required to make amends, and to delegate some contributors to the conference to decide on the details at a later time. It is vital that everyone at the conference is clear about how the plan will be monitored, and a time for reporting back should be decided upon.

End the Conference on a Positive Note

The conference should be finalised in the future, rather then by focusing on the offences. Some convenors attempt to finish the conference by having someone say positive things about the young person.

Convenors might invite parties to share together in tea and coffee at the completion of the conference. This can ritualise the restorative process which has hopefully occurred.

KEY CONCEPTS

Accountability/Justice

Great care must be taken not to assume that accountability and punishment represent the same things. In Restorative Justice, processes of accountability are traced to the victim and to the community of which the young person is part. The emphasis is on maintaining rather than rupturing the relationships, by seeking to make amends, rather than by enforcing punishment.

Enhancing the well-being and strength of the family and the school community

The conferencing process aims to enhance relationships between members of the school community and the families of the young people by providing a context in which all can come to greater understanding of the others' aspirations, hopes and ambitions. Strengthening the families is achieved by ensuring that the offender's and victim's supporters are present in the conferences and are actively involved in the decision-making processes.

Family participation and consensus decision-making

The Restorative Conference brings together family or whanau and other interested parties to decide how to address youth offending (Angus, 1991). What is innovative about the process is the involvement of the community in the decision-making process.

Reparation and reconciliation

The aim of the Restorative Conference is to allow for healing through reconciliation, an acknowledgment of the past and a moving forward (McElrea, 1993). We are keen to ensure however that this does not mean that reparation becomes the sole focus of the conference. The key to a successful conference is the way relationships between and among the participants are cared for and enhanced.

Cultural Appropriateness

The Restorative Conference must be appropriate to the cultural background of the people involved. Local iwi or concerned elders and other concerned community representatives must be involved in all aspects of the process, from initial consultation to implemention and monitoring of the process.

Group decision-making

The people affected by a breach of school rules are not just the individual victim, or the school, but the rights of the victim's family and community are also violated (Davis, 1992). It is therefore important that this community have some input into the process. The strength of the conferencing process is that it engages in the analysis of

the multiple concerns of the community (Braithwaite, 1993).

Information sharing

One of the advantages of the conferencing process is the sharing of information with the extended family. This removes some of the secrecy that can surround problem behaviours and enables the community to support the families. In the conferencing process the issues which have in the past only been "whispered behind closed doors" can now be brought into the open.

Co-operative approach

It is fundamental to the conferencing process that the parties should be able to participate in decisions that affect them (Hudson, Morris, Maxwell and Galloway, 1993). Since the basis for the Restorative Conference is **non-adversarial**, it encourages the parties to find the way forward themselves rather than rely on a solution imposed by "experts".

Community Base

The wider use of the community as an integral part of the process draws on the range of local knowledge within the community, using the community networks to support change. It also enables the parties to focus on the strengths of their own family and community.

Breadth of outcomes

One of the major advantages of the conferencing process is the ability to come up with wide ranging options. If the family and community are involved in suggesting options for redress, it is more likely that they will have a stake in seeing that the process is followed through.

Flexibility

The process is responsive to particular cultural needs and is able to generate wider ranging options than other formal processes such as a Board of Trustees or a court hearing. The desire for cultural appropriateness means that flexibility is essential.

Reconciliation and Reintegration

Conferences focus on reconciliation and reintegration. Whilst they take pains to identify the needs of disaffected youth, it is important not to over-emphasise the focus on the "offender" if this means overlooking the rights of any victim, the school and the community.

Culture of the School

If the key people in a school come to accept the philosophy of conferencing they will adapt and apply it within the culture of their school. That makes it important *to communicate the key understandings about conferencing to the Principal and Deans, as well as the Guidance staff, parents and Board of Trustees – indeed, to the entire*

school community. This is not so much a way to **do** conferencing, but a way to **think** about it.

Community of Care

A strength of the conferencing model is that it makes visible and further develops the community of care around the young people concerned. This community can become a resource for the school in the future.

Focus On Possibility

Throughout the conference there is a desire to open possibilities for change, rather than to fix the person or the problem, and the resulting situation. The kind of language that is used, and the habitual stance of the facilitator within the conference will set the tone for this approach.

Deficit Discourse
The language used in the conference should shy away from the use of deficit descriptions of the young person, especially descriptions that infer some inner core of badness or deficit. Some use of such language is inevitable within the conference, but it is a responsibility of the facilitator to deliberately move the ways of speaking away from deficit language and deficit thinking. The process is designed to help with this.

Alternative Stories

Michael White, one of the creators of narrative therapy, is frequently quoted as saying that no description of a person is so self-consistent that there is no contradiction within it (White, 1989). One of the ways in which we can shake the power of the deficit story about someone is to look for the alternative stories, the stories that contradict the powerful story of wrong-doing. This is the function of the second Mahi Phase of the conference, but the ground for this move is laid and supported by the process to that point. The search for alternative stories does not completely substitute for the problem-story. However it does make an alternative position of dignity and potential strength available to the young person, which they can then use to stand upon while they agree to make amends.

We are paying attention to the forum within which this information is gathered because we recognise that school systems do not easily acknowledge alternative views of a student. To overcome this we bring all those involved together in a meeting – the school community conference – and deliberately foster equality of voice. This approach to problems invites questions about what is preventing a person from acting differently - yet at the same time, it invites all persons to positions of responsibility.

Thick And Thin Descriptions

What we are doing is **changing the way we gather information** about a student about whom we are concerned. Rather than relying on the school file with its record of misdemeanour and failure (a thin description), we are asking all those involved in the student's community of care to contribute to the fullest picture possible (a thick

description). What this wider sourcing of information allows is a more considered and, hopefully, more effective intervention.

SECTION D

REFLECTIONS ON USING THE RESTORATIVE CONFERENCE

We undertook the Trial in the form of an action research project. This means that we kept incorporating our learnings from doing conferences and from feedback received from facilitators and schools. We have not reached the end of this learning process, and so the document before you is very much still a step on the way.

We thought it may be useful to record here some of our learnings to date, and also some of the things that others have alerted us to. We hope that if you use this Manual you will let us know how your conferences have gone. Our address is on the front page.

FISHHOOKS FOR FACILITATORS

a) In a case where an assault has taken place it is important to remember the fear that might be generated in the victim by the violence that has taken place. If the offender is not willing to admit to the violence and make amends for it, or wants to blame the victim or scoff at the effects of the violence, then there is a serious risk of the conference actually turning into an experience of violation for the victim. In the wake of violence, such responses from the offender compound the degree of intimidation. For this reason in such situations it is necessary for the facilitator to know that the offender is ready to take responsibility and make amends before the conference starts. This may mean that some important work has to go in separately with the offender and his/her whanau before the conference is agreed to. The facilitator should be prepared also to halt the conference if the process does not appear to be safe for the victim. Facilitators need to monitor such situations carefully and see their primary responsibility as to keep the victim rather than the offender safe.

b) The conference process is designed to avoid deliberately shaming young people through avoiding deficit language, including positive information about a young person, externalizing problems and talking about them as separate from people. However some participants may seek to take the opportunity to shame others publicly. The facilitator needs to interrupt such talk and refocus the conference on the idea that "The problem is the problem; the person is not the problem."

c) In some conferences facilitators have talked about problem issues in language that seem to make light of them. This may be born of a desire not to inflame problem issues or to speak disrespectfully about a person. However it can lead to problems when some of the participants feel that the problem is not really a serious one. Therefore it is important to speak about problem issues frankly and directly with real seriousness early in the conference.

d) If key people are missing from the conference, it can be tempting for a facilitator to go ahead anyway and hold the conference with those who have turned up. However, **it is not advisable**. It is better to postpone the conference until the key participants can be present.

e) Venue problems (marae or not). Does the school have a relationship with the Maori community? This conferencing process does require schools to address this issue if they have not done so already. Since many of those suspended are Maori (60% in the Waikato region in 1998) it is imperative that the venue for such conferences is easy for Maori families to feel at home in.

f) There are some situations where the facilitator finds him/herself in a dual role. If the facilitator realises that s/he has been affected by the problem and may even be a victim of it, it is possible to feel very constrained by that in the conference. It does not fit with the facilitator's role for a person to vent anger for example in the offender's direction.

g) Sometimes participants get concerned during the first part of the conference about the "negative" focus on talking about the problem. It may be necessary to reassure them that this is a necessary part of facing up to what has happened but that we will be also focussing in a few minutes on more a positive picture.

h) It is very easy for the conversation in a conference to be hijacked by the adults present and to speak in objectifying ways about a young person as if that person were not in the room. Using pathologising or putdown language is hard for young people to counter and does not assist the hui process. Facilitators need to be alert to such situations and be active in disrupting them. Sometimes it is useful to ask the young person to comment on ideas put forward by adults.

i) If there are a number of teachers present at the conference, it can be a problem if they start to talk too much and dominate the discussion to the exclusion of the family members. Again the facilitator needs to monitor this and deliberately elicit the involvement of family members.

j) There are many things that can go wrong with the plan for the future. People can fail to follow up and do things that they said they would do. People who were not present at the conference may attempt to sabotage the outcome.

k) The plan may not be concrete enough. This makes it hard to know whether it has been achieved or not.

l) Times and dates may not be included in plan and therefore confusion can develop.

m) Who will do things may not be specified in the plan.

n) Achievements intended in the plan are not noticed or celebrated.

o) If the relationship between the BOT suspension process and the conference is not clear, problems can arise that may lead to participants feeling betrayed by the school as one process works against the other.

WHAT PEOPLE SAY ABOUT THE PROCESS

Facilitators

It is hard to get all stages working as well as each other. It is easy to pay more attention to the beginning stages of a conference and to run out of steam towards the end.

It is important not to cut short or be "soft" on the initial description of the problem. The objective is not to whitewash the seriousness of the trouble.

Sometimes people are too quick to grab onto an alternative story. If this happens, the new story may not be well focussed to the issue at hand.

It is easy to let the focus shift to punishment, and not stay with making amends.

When a lot of time goes by between conferences, it is sometimes hard to keep the school and community energised towards the process.

It can be different if there is no identified victim.

Telling the story of continual disobedience can become an uncomfortable debate. The school can easily become big/bad in relation to the family. It is important that everyone knows ahead of time that the conference will not continue to focus on the bad stuff.

When a Young Person has little or no support it is important not to overwhelm them with potentially adversarial other participants.

It can be useful to involve a Board of Trustees representative in the conference.

It is great to involve the Young Person's mates.

Watch role conflict in the conference, especially of the facilitator. For this reason it is good to have at least two facilitators trained in a school.

Informing others about the outcome of the conference is important, otherwise they can just slip straight back into old ways.

Get whanau involved, and pay attention to the spiritual aspects.

The dynamics of a family become very apparent during the conference.

Management

The entire school community needs to be informed about the process before doing any conferencing.
Doing the conferences highlighted the quality of communication between school and community.
It is desirable to build a team who work together to do the conferences.

Teachers

It is good to see the "troublemaker" as a human being, and get to understand their lives a bit better.
Links with enhanced/curriculum can become more appropriate after a conference.
It's just a slap on the wrist with a wet bus ticket.

Parents

That was the first time we have ever been into that school.

That was the first time we've ever had a conversation with the school where they weren't just telling us how bad our son is.

If we had had that kind of talk earlier we never would have got to this.

Counsellors

It is hard convincing people (teachers, BOTs, Principal) to give up some of their power.
Successful teams just keep getting more work.
We cannot sustain the community of care by ourselves after the conference.

The Community Support Person is invaluable: she knows the families, where to find the important people, how to talk with them, and how to talk within the school too. She is part of our team.

General Positive Comments

In the first step, you realise that a lot of people are affected.
The hui is a second chance for the young person and all of us.
The conference process tries to empower everyone including the offender and their family.
Parents and caregivers are very supportive.
The conference is a kind of window on the school system.
It is amazing to see how many people care and are willing to spend time.
Students have a voice in the conference.
Principal and BOT can access more information on which to base decisions and they experience the change in the young person during the conference.
Unseen effects happen in conference process.
Healing happens at home – the hui can be a catalyst for talk with family.

SOME FINDINGS FROM THE TRIAL PROJECT

1. Conferencing has an effect on the culture of the school, including the fostering of thinking in terms of restoration and making amends rather than in terms of punishment and retribution in other aspects of the school discipline system.
2. The time involved in setting up running and following up from a conference is an issue that needs to be addressed.
3. A Restorative approach to school discipline represents a major change in attitude for many schools, away from the retributive approach to discipline that is so familiar to most of us in the education system.
4. Nevertheless, our interactions with the 14 schools who wanted to participate in the trial, and with the five schools who were chosen, suggest that there is a strong desire among school hierarchies to embrace a less confrontational approach to school discipline. Indeed, there was almost a hunger for debate about the assumptions behind discipline and punishment.
5. Anecdotal evidence suggests that in some schools different perspectives on disciplinary approaches could be a source of conflict among staff, and between different levels of the school hierarchy.
6. There appears to be a general willingness for schools to become more community-oriented. However in our view the history of control in schools does not readily support this trend to a more open culture within the school.
7. A commitment to what has been called the "Zero option" (no suspensions at all: Abdelnoor, 1999) would not be difficult to make for many schools, but they would need support in the form of
    a) Ongoing professional development for the staff and management, including BOT, to enable fuller understanding of restorative justice principles
    b) Ongoing training for the facilitators of Restorative Conferences
    c) Specially employed community support staff who would work alongside the Deans and Guidance staff in the school and its community
8. Where this is not already a feature of school life, schools need to forge deliberate links with local marae and their kaumatua if they wish to seek support for hui in an ongoing way. This relationship must be mandated by the Principal, whose mana will infuse every aspect of this relationship.
9. Although we do not have figures to support it, we would suggest that the changes to school culture outlined above would eventually repay manyfold the time taken to set up the relationships involved in terms of time saved in disciplinary matters.
10. Although we have noted some reluctance in schools to entertain the idea, it would be sensible to include the Police in the school-community nexus. Many Police Youth Officers are keen to be involved with schools, and this kind of initiative should not be seen as separate from a commitment to Restorative Conferencing.

From the Final Report
RECOMMENDATIONS

OVERALL RECOMMENDATIONS

On the basis of our experience working with the conferencing process in schools over the last 18 months it is our recommendation that the project is expanded into either a national pilot or into further regional projects. We make this recommendation on the basis that:

- We believe that the process has enhanced the way in which school address disciplinary issues. Our feedback from participants in the project would indicate that on an individual level the people affected were highly satisfied with the process and its outcomes. The process has greatly improved the participation of all parties involved in the disciplinary issues in schools.

- The value of the conferencing process is not limited its direct impact on the suspension figures. There is evidence of dramatic changes to the culture of the schools engaged in the pilot. The project has fostered a rethinking of the way in which many issues are addressed in schools as the management moves away from a punishment focus toward considering issues in terms of restoration and making amends. The process has fostered a number of changes in school policies to address systemic problems in schools, including forming closer allegiance with local iwi and community groups.

- That Restorative conferencing should be available to schools at all levels. This should include both primary and intermediate schools, as well as secondary schools.

RECOMMENDATIONS ON PROCESS

1. It needs to be understood that the conferencing process will be implemented in schools in specific regions in different ways. Each school will have subtle differences in the way in which they conduct the conferences depending on the cultural context of the school and its community. There needs therefore to be a degree of flexibility in the process and the way training is conducted in different regions to accommodate for these changes. Based on experience there are however some general recommendations that can be made on how the process of conferencing can be implemented.
2. It has been our experience that the support of the management, staff and community of the schools is an essential ingredient for the success of Restorative Conferencing. We therefore recommend that all schools undertake a detailed consultation process prior to initiating any project.

3. We also recommend that those schools that wish to consider establishing Restorative Conferencing carefully analyse whether the process fits within the culture of the school. The restorative ideals, as opposed to a punishment focus, have to be deeply embedded in the school's culture for the project to be successful.
4. The relationship between the disciplinary role of the Boards of Trustees and the conferencing processes should be clarified from the outset. At times the demarcation lines between these linked roles can create problems. Clear polices need to be established between these two disciplinary processes. This is particularly important in determining the responsibility for reporting to disciplinary committees or the board and the extent to which completion of agreed outcomes will remove the risk of suspension.
5. We recommend the use of a community support person to complete the community liaison and administrative work that is vital to the conducting of conferences. The use of the support worker appears to enhance the participation of all groups in the process.
6. In high schools the deans should be trained as convenors to assist in the referrals of students to conferences. As the staff members who hold an overview of the issues in their area of responsibility, they have greater potential to ensure pro-active steps are taken to address disciplinary issues as they arise. Deans should therefore be one of the staff members primarily responsible for recommending conferences.
7. The conferencing process can be used for a range of different types of problems: including continual disobedience, assault, vandalism, alcohol and drugs.
8. The process has the potential to be extended into other contexts within the schools as a model of handling contentious issues. This could include developing processes to address classroom conflicts, bullying, peer mediation, staff conflicts and issues within Boards of Trustees.

WHO SHOULD FACILITATE CONFERENCES?

1. School counsellors, deputy principals and deans have successfully facilitated conferences.
2. External facilitators could be used by schools to either run conferences or to support the facilitators in conducting the conference process.
3. The mana of the process and its outcomes in a school requires that the facilitator have the authority within the school to invite key people to attend the conference and to carry out the agreed plan. This authority may also be achieved through senior school staff actively supporting and endorsing the process.
4. At least two people be trained as facilitators in each school to enable them to work together to implement conferencing within their schools.
5. One of the discoveries has been the importance of a community support worker in liaising with the community and facilitating the participation of affected people in the conferences. We therefore recommend that each participating school engage a community support worker whose role is to establish close links between the school and the community and explain to participants the steps involved and their roles in conferences. The support workers can also support the conducting of conferences through encouraging people to come, taking responsibility for

hospitality, greeting and introducing people and taking notes in the hui, and following through with the Plan.

RECOMMENDATIONS ON TRAINING

1. The implementation of conferencing in schools needs to be conceived of as a developmental process as the facilitators become confident and proficient in handling the dynamics of conferences. Despite suggestions from many schools that they are "already using these techniques", it has been discovered by all schools that the process is unique. The completion of the training programme does not guarantee the successful integration of the restorative ideas by those who have trained. It takes some time for the learnings from the conferencing training to become embedded. As a result, the training as facilitators cannot be completed in a single training session. The convenors should receive an initial intensive training, be supported in the implementation of the initial conferences, and then receive follow-up training and support that builds on their experiences.
2. Training should take place at two levels. An in-depth training is required for all facilitators. In addition a shortened training is essential for key stakeholders within the school and its community who need to know about and support the conferencing process. This training should include Board of Trustees members, principals, deputy principals, deans, kaumatua and other key members of the school community.
3. The Resource Kit is provided only at the conclusion of the initial intensive training. Our experience of the difficulty in making the transition from training to implementation means that any attempt to short-circuit the training process by providing the manuals without the intensive preparation is likely to be more harmful than helpful.
4. That a video be made to use in training which demonstrates the conference process in action.
5. Since the expansion of the conferencing process will create new demands, the experience of the project team is essential to the viability of the extension of the project. A role should be found to retain this knowledge in training and implementation of the expanded programme.

RESOURCING THE RESTORATIVE CONFERENCING PROJECT

1. The following items need to be considered in the cost of running these conferences: wages of community support person, teacher release costs for training, hospitality costs, travel costs, teacher and management time for attending conferences, time for follow-up and reassessment of the plan.
2. At a final Training Hui during the Trial, participants estimated that the Community Support Person used 10 hours per conference in preparation, support and follow-up. If these services are charged at $20 per hour, and if a school runs 10 conferences per year, the total cost of wages for the Community Support Person would be $2000 per year. However, these estimates are conservative and do not include the cost of teacher release, travel and incidental costs. There is also

the issue of involving a Community Support Person who would be “on call” rather than be in committed employment.

3. That schools be offered $3000 to buy into the running of these conferences and that this sum be made contingent on an agreement to participate in training, appoint a community support person to do the spadework for the running of conferences and submit an annual report on the use of the conferences in the school.
4. That funding should take into account the need for a regional support system for the running of these conferences, including the appointment of a trainer/consultant to support schools in learning how to use this process.

REFERENCES AND FURTHER READING

Abdelnoor, A. (1999). *Preventing exclusions.* London: Heinemann.

Angus, J.H.(1991). "The Act: One Year On." *Social Work Review, Vol. 3,* No. 4 .

Bird, L. & Drewery, W. (2000). *Human development in Aotearoa: A journey through life.* Sydney: McGraw-Hill.

Braithwaite J. (1993). "What is to be done about Criminal Justice" In Brown, B.J. (Ed.) *The Youth Court in New Zealand: A New Model of Justice.* Legal Research Foundation.

Boers, A. (1992) *Justice that Heals A Biblical Vision for Victims and Offenders.* Newton, KA.: Faith and Life Press.

Davis,G.(1992). *Making Amends: Mediation and Reparation in Criminal Justice.* London: Routledge.

Burr, V. (1995). *An introduction to social constructionism*. London: Routledge.
Education Weekly

Cheshire, A. & Lewis, D. (1996). *Taking The Hassle Out Of School: The work of the Anti-Harassment Team Selwyn College.* Auckland: Selwyn College.

Grant, Trish (1999). The Education Sector: A demonstrated need for advocacy. *Children*, No. 30, 5-6.

Hooper, S. (1999). *Rethinking the Ptolomeic Response to Offending Lifting the Blindfold on Criminal Justice.* University of Waikato: Unpublished Masters Thesis.

Hooper, S. (1998). "Restorative Justice: Where from where to?" Paper presented at the 6th International LEADR Conference in Australasia on Dispute Resolution, Sydney, 2-4 October 1998.

Hudson, J., Morris, A. Maxwell, G. and Galaway, B. (1996). "Introduction". In Hudson, J., Morris, A. Maxwell, G. and Galaway, B. (Eds.), *Family Group Conferences Perspectives on Policy and Practice* . p. 2.

Jenkins, A. (1990). *Invitations To Responsibility.* Adelaide: Dulwich Centre Publications.

Jubilee Policy Group (1992). "Relational Justice: A New Approach to Penal Reform Part One" a Research Project by the Jubilee Policy Group and Prison Fellowship England & Wales in Association with the Prison Service Chaplaincy

Marshall T (1988). "Out of Court: More or Less Justice". In Matthews R (Ed) *Informal Justice* 43.

McMenamin, D. (1998). *Suspense stories*. University of Waikato: Unpublished dissertation for MCouns.

McElrea, F.N.M. (1993). "A New Model of Justice". In Brown, B.J. (Ed.)*The Youth Court in New Zealand: A New Model of Justice* . Legal Research Foundation.

McElrea, F.W.M. (1996). Education, discipline and restorative justice. *Butterworths Family Law Journal*, December, pp.91-93.

Macfarlane, A.H. (1998). Hui: A process for Conferencing in Schools. Paper presented at the Western Association for Counsellor Education and Supervision Conference, Seattle, U.S.A., 18-22 November.

Macfarlane, A.H. (2000). The value of Maori ecologies in Special Education. In D. Fraser. R. Moltzen & K. Ryba (Eds.), *Learners with special needs* (2nd ed.), pp.77-98. Palmerston North, New Zealand: Dunmore Press.

Ministry of Education. (1999). *1998 Fourth Quarterly Report on Suspensions*. Wellington: Author.

Ministry of Education. (1999a). *Guidance for Principals and Boards of Trustees on Stand-downs, suspensions, Exclusions and Expulsions*. Wellington: Author.

Monk, G,, Winslade, J., Crocket, K. & Epston, D. (1997). *Narrative therapy in practice: the archaeology of hope*. San Francisco: Jossey-Bass.

O'Hanlon B.(1994). "The Third Wave." *The Networker*, 24, pp.19-29. November/December.

Palk, G, Pollard, G. & Johnson,L. (1998) "Community conferencing in Queensland" a paper presented to Australian and New Zealand Society of Criminology InternationalConference 8-10 July.

Queensland Department of Justice. (1997).*Queensland Community Conferencing Manual*. Brisbane: Author.

Umbreit, M., "Mediation of Victim Offender Conflict" (1988*) Journal of Dispute Resolution* 85-105, 86.

Van Ness, D. (1986). *Crime and its victims*. Downers Grove IL.: Inter Varsity Press.

White, M. & Epston, D. (1992). *Narrative means to therapeutic ends.* New York: Norton.

White, M. (1989). The externalizing of the problem and the re-authoring of lives and relationships. In M.White, *Selected Papers*. Adelaide: Dulwich Centre Publications.

Winslade, J. & Monk, G. (1999*). Narrative Counseling In Schools: Powerful & Brief.* Thousand Oaks, CA: Corwin Press.

Winslade, J. & Monk, G. (2000*). Narrative Mediation: A new approach to conflict resolution*. San Francisco: Jossey Bass.

Zehr, H. (1990). *Changing Lenses.* Scottdale, PA.: Herald Press.

Zehr, H. (1994). "Justice that Heals: the vision*″ Stimulus Vol. 2*, No. 3, p. 2.