

Training Session Materials

Responding to hate crime restoratively

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NB: Please note that this document contains examples of prejudiced and hostile language. This is used for learning purposes only in order to illustrate how and when spoken and physical incidents amount to hate crimes, hate speech and hate incidents.

What is hate crime?

“Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice.” (College of Policing, 2014)

- ▶ Criminal offences with a hate-element
 - ▶ Prejudice
 - ▶ Hostility
 - ▶ Dislike

Example of a hate crime: Jack and Sam have been out drinking at the student union bar. On their way home they come across Amelia, a second year student who is transgender. Sam wolf whistles at Amelia and they both laugh. Amelia turns to them and tells them to “f**k off”. Sam says to Jack, “don’t let her get away with that” and so Jack walks up to Amelia and spits on her face during which he calls her an “ugly tr*nny fagg*t”.

Jack has committed a criminal assault on Amelia, which is aggravated by transgender and/or sexual orientation aggravation (making the incident a “hate crime”). In law Jack will be a principal offender, while his friend Sam may be guilty as a secondary offender, or he may be guilty of encouraging and assisting Jack.

What is hate speech?

- ▶ Spoken or written words with a hate-element
 - ▶ May or may not amount to a crime
- ▶ Hate speech offences include:



- ▶ *Abusive* and *threatening* words stated in a public space that are likely to cause harassment, alarm and distress (e.g. s. 5 Public Order Act 1986)
- ▶ *Stirring up hatred* (using spoken or written words) towards someone based on their race, religion or sexual orientation (e.g. s. 17 Public Order Act 1986)
- ▶ Sending electronic communications that are indecent, grossly offensive or menacing in character (e.g. s. 1 Communications Act 2003)

Example of hate speech: Fatima is in the university library studying for her final exams. She is Muslim and she wears a hijab. She notices that another student, Alex, keeps looking at her while she is reading her books. After a while Alex walks past Fatima and points his phone at Fatima and starts laughing. She ignores him. Later that evening Fatima's friend calls her to say that a student has posted a picture of what looks like her on Facebook with the caption "terrorist invasion at Sussex lol". Fatima and her friend believe that this is an anti-Muslim statement against her. Alex has engaged in hate speech against Fatima by posting her photo online and referring to her as a terrorist. The incident should be investigated by the police as a hate speech offence as it may be deemed a "grossly offensive" electronic communication. If there is evidence that Alex specifically intended to stir up religious hatred by posting the image he may also be guilty of a stirring up of religious hatred offence. However, freedom of expression is also protected in law and there is not always sufficient evidence to prosecute. In which case, the police should still record this incident as a "hate incident".

What are hate incidents?

- ▶ "any non-crime perceived by the victim or any other person, as being motivated by prejudice or hate" (College of Policing)
 - ▶ Spoken words that are not deemed abusive or threatening
 - ▶ Spoken words that are abusive but not said in public
 - ▶ Mocking and humiliation
 - ▶ Spreading rumours

Example of a hate incident: Ben and Emily are studying for a degree in social policy. Ben has autistic spectrum disorder and sometimes finds certain social situations difficult to navigate. Emily knows that Ben is autistic but finds his behavior peculiar, often remarking to others that "he can't look you in the eye". During one seminar on youth social policy Ben says that he prefers the company of younger people. Emily laughs out loud in response and whispers to her friend "what a nonce". That evening she tells a group of friends that she thinks Ben is a paedophile. The rumour quickly spreads and other students begin to avoid Ben, while others start to give him "filthy looks". Emily may have committed a civil wrong against Ben (known as defamation) but it is unlikely that she has broken any criminal offences. If Ben, or any other student, perceives her actions to be motivated by prejudice because of his autism the police must record this incident as a "disability hate incident".

What are the impacts of hate?

Research has shown that hate crimes are likely to be more impactful on victims than similar non-hate motivated incident.

- ▶ Alter their sense of safety making them feel more vulnerable and anxious
- ▶ Experience increased feelings of anger and injustice
- ▶ Experience increased suspicion and social withdrawal
- ▶ Some individuals may experience feelings of shame
- ▶ Depression can last for longer periods of time
- ▶ Some will want to be more 'proactive' in the community to fight hate
- ▶ Some are more security conscious
- ▶ Victims are likely to avoid certain places and locations
- ▶ Increased levels of suicidal ideation
- ▶ NB: Studies have shown that hate crimes are more impactful than similar non-hate motivated crimes

Q. What is restorative justice?

A. Restorative Justice is based on the belief that individuals harmed by crime and/or interpersonal conflict can (with appropriate skilled support) be helped to find ways to repair the harm by participating in inclusive dialogue with those responsible for the events (collectively these individuals are known as the “stakeholders”). The restorative process has the potential to be transformative for all parties involved by giving each participant a voice in the process. Rather than other people (not directly connected with the original incident) determining what should happen, a trained RJ ‘facilitator’ or ‘practitioner’ empowers the stakeholders to make decisions about the ways in which conflict (or crime) can be resolved. The facilitator holds separate preparatory meetings with all stakeholders and facilitates any indirect or direct communication between the parties with the aim of finding a resolution acceptable to both parties.

Q. Ok, that’s the theory but what does it sound and look like?

A. The person who has been harmed is contacted by the facilitator who then meets them if they are willing, and then using a series of questions the facilitator listens to their story. By listening to the person’s responses, the facilitator can identify their needs and determine whether any of these remain unmet, for example there may be questions they would like to ask, or things they’d like to say to the person responsible for the harmful consequences of the incident. This is a good moment for introducing the idea of a face to face restorative meeting together with the person being held responsible. It is explained by the facilitator that the purpose of the direct meeting is to allow the harmed individual to tell their “story” about what has happened to them, including how they have been affected and to ask any questions they have directly to the other party. The individual being held responsible will have the opportunity to explain their actions and to answer questions posed by the other party. Sometimes there are some very good reasons why people do not feel able to meet directly, and so there are a range of options available in such cases, including what is called ‘shuttle RJ’ where the facilitator acting on behalf of each party exchanges letters or notes or verbal messages with the aim being to find a resolution.

Q. What if the person being held responsible denies their involvement?

A. Facilitators work with parties where one person is clearly the person harmed, and the other party is taking some responsibility for that harm. However the actual process of preparation for a meeting can in itself lead to the responsible party being willing to take even more responsibility than when they entered the process.

Q. Who uses RJ?

A. Currently in the UK RJ is being used by the police, by prisons, by youth justice teams, by schools and colleges, in the workplace, in housing associations, on large housing estates, in residential care homes, and in a wide range of community settings. Very few Universities are currently using RJ.

You may also have heard of RJ being used in South Africa and in Belfast, and in other places around the world.

Q. What’s the difference between Restorative Justice and Restorative Approaches?



A. Restorative Justice is the term used in the criminal justice system where the parties involved are labelled as being a victim or an offender. In schools and colleges and other places, the parties are generally called ‘the person harmed’ and ‘the person held to be responsible’ and the process is often referred to as Restorative Approaches.

Restorative Justice does, however, also tend to be used as an umbrella term for all practices which employ some or all of the key restorative values of “encounter”, “repair” and “transformation”. Examples include: restorative responding, listening circles, circle meetings, victim awareness raising groups, family group conferencing, victim offender mediation, and something called Restorative Justice Conferencing in all its forms.

Q. I’ve heard that RJ lets people who’ve done something wrong just say they’re sorry and they get out of trouble that way, that doesn’t sound fair to me...so how do you stop them getting away with that?

A. Facilitators are carefully trained for this role, and are expected to meet the Occupational Standards as laid out by the Restorative Justice Council. Skilled facilitators prepare each of the parties very carefully, and are always mindful of the risks involved particularly in complex and sensitive cases. Sometimes the person being held responsible may start off just ‘playing along’ and may not be fully engaged, however there is something very powerful in this process that makes it very hard for the person being held responsible to completely avoid being held to account for their actions. When faced with the person they have harmed, it is hard to ignore the things they are being called to account for, there’s really nowhere to hide, and it can be quite tough for them. Collectively, the parties decide how the conflict can best be resolved. While for some individuals, all that is needed is a sincere apology, for others reparation may involve financial compensation, returning of property, fixing broken or damaged property, participating in community work, and even educational activities aimed at moral learning.

The process can be transformative for all parties, but it is not always straightforward or easy which is why the training of facilitators is so important as they support both parties to reach a resolution that meets all or most of their needs.

Q. How can I get involved?

A. All student facing staff have the opportunity to provide a restorative response that could help the student who has experienced harm to begin their recovery. Sometimes it is enough to be heard, if the listening is ‘right’. 1st responder training is the first step in the restorative pathway, referrals to trained practitioners allows the restoration of respect for diversity to continue. Managers and leaders will be formulating how this new pathway will operate in practice, but in the meantime and as ongoing good practice you are invited to explore the opportunities and benefits offered by restorative responding as a valued alternative or in addition to already effective practices.



Case Study: Antisemitic harassment – exploring the harms of the Holocaust¹

Mr K, a 17 year old Jewish male, lives in a small town in Oxfordshire. Mr Y, a 17 year old white British Male, began to harass Mr K because of his Jewish heritage. The first incident involved Mr Y coming from behind Mr K and pushing him to the ground. During this episode of violence Mr Y repeatedly yelled, “you fucking Jew”. Mr K ran from the scene as Mr Y and a group of his friends threw rocks at him, one closely missing his head. Mr K reported the incident to the police. However, the offender continued his victimisation of Mr K, including one incident where he racially/religiously abused him and his mother when walking in town. Mr K’s mother, shocked by the abuse, reported the incident to the police, after which Mr Y was arrested and following an investigation and prosecution he was convicted of racially and religiously aggravated harassment under section 32 of the Crime and Disorder Act 1998. As a first time offender, Mr Y was sentenced to a Referral Order and later referred to Oxford Youth Offending Service where a restorative justice practitioner was assigned to his case.

The RJ practitioner met with Mr K and his father who spoke at length about how the incident had affected them and how important their Jewish roots were. The facilitator asked Mr K how the offender might help to repair some of the harms he had caused. Mr K stated at interview:

I personally said I don’t want him to be punished by clearing the side of the roads because that will get you nothing, it was my suggestion for him to see on the internet about what happens when you hate Jews.

This suggestion led to the offender being asked to undertake a research project into the rise of the Nazi party and the effects that antisemitism had on the Jewish race during WWII. The offender manager, herself Jewish, supervised the project which was completed over a two week period. The report was then presented back to the victim and his family by the RJ facilitator. At the end of the six page report the offender reflected:

Since I have had my reparation [the completion of the research project] I feel that I understand why incidents involving racial abuse against Jewish citizens and all

¹ Case study taken from Walters, M (2014) *Hate Crime and Restorative Justice, Repairing Harms, Exploring Causes*, OUP.



over [sic] races are taken so seriously. As I have been doing this timeline and reading about what actually happened around the time of the Holocaust before it wasn't clear to me but now it is and I realise the seriousness of the offence I committed. I also understand the hurt and pain the victim and his family must of felt when I said what I said to him as it was obviously a terrible time for there [sic] race from the earlier 1930's and I shouldn't of used that against him to hurt his feelings as it is not just him that it relates to but a whole race of people and that's not what I intended to do.

On reflection of my actions I now feel that I will be able to use language more appropriately towards over people and not to talk about peoples religions and believes in such a way that I did before as it is not nice and I would not want people to talk about my family and there racial believes the way I commented about the Jewish religion as it is unacceptable because of the pain it causes to the people it happens to and because language like that is not acceptable in public areas because it could offend more than one person even if it is not directly aimed at the public they still would've had to hear it.

To begin with, both father and son appeared sceptical as to the genuineness of the report. In particular, the victim's father was concerned that the offender had missed out important information about concentration camps during WWII. However, after several minutes of digesting what the offender had written, the father of Mr K commented:

What he has written... he shows what a personal hate can do when you gain power.

What would happen... it's a start, this is better than painting a fence or something!

Mr K then responded:

Let's hope this shocks him into changing his ways. This is really a cross roads for him. Maybe he will benefit from it...

At interview, Mr K went on to say that, "It's definitely helped me a lot more than if I wouldn't have had it." When asked whether he believed the offender now had a better understanding of his identity background, Mr K replied:



Somewhat I think, well the fact that he had to do this [referring to the report]... he's looked into some things that hatred can do... the bad times of the Holocaust...

The victim went on to state that he had not experienced any further forms of harassment from Mr Y. Mr K's case is just one example of how reparative work may help offenders to learn more about cultural and identity difference, and more broadly the harmful impacts that racial and religious hostility has, not only on the primary victim, but on entire groups of people.