

Restorative justice in Sweden¹ (up to date until January 2008)

1. Legal base

On July 1st 2002 Sweden enacted a law on victim-offender mediation, the Mediation Act (Lag 2002/445 om medling med anledning av brott). The Mediation Act provides a framework for victim-offender mediation organized by the state or municipalities. The Act is primarily focused on young offenders but no age group is excluded. According to the Act, the goal of mediation is to increase the offender's level of insight into the consequences of the offence, at the same time as the victim is provided with the opportunity to work through his or her experiences. For an offence to be referred to victim-offender mediation it has to have been reported to the police, and the offender must have acknowledged his or her guilt before mediation can be initiated. Participation in mediation is always voluntary for the parties involved. The Mediation Act provides general criteria for victim-offender mediation, but does not regulate mediation in detail.

Victim-offender mediation is also mentioned in two paragraphs of the Young Offenders Act (lagen om unga lagöverträdare, LuL, paragraphs 6 and 17). One paragraph allows, but does not oblige, prosecutors to consider whether mediation has taken place when prosecuting a young offender. From 1st January 2007, the duty of the prosecutor with regard to victim-offender mediation has been clarified further and the Prosecutor General has provided guidelines to all prosecutors stating the minimum extent of their obligations in this area. The other paragraph relates to the information provided by the police to the social services in relation to offenders below the age of 18: this should include information on whether the offender has been offered the opportunity to participate in mediation, and on how the offender responded to this offer. The Chief of Police is currently writing guidelines for the police on how they should refer cases to the mediation services within the municipalities.

As of 1st January 2008 it is obligatory for municipalities in Sweden to be able to offer victim-offender mediation to all young offenders under the age of 21 (Social Services Act, Chapter 5, Paragraph 1c, 2006:901). As of the same date, victim offender mediation constitutes part of the routine work of the Department of the Social Services.

2. Scope

Victim-offender mediation is the form of Restorative Justice most often used in Sweden and is regulated by the Mediation Act. There are some municipalities that have chosen to use other forms of Restorative Justice, for example Real Justice or Conferencing Circles. As previously stated, RJ is offered to young offenders but the Act does not prohibit any age group from participating in victim-offender mediation.

Most cases are referred by the police, but some come from the social services, prosecutors and others. As regards offenders below the age of criminal responsibility, which is 15 years, most of the cases come from the social services, since victim-offender mediation is one of the few forms of intervention available in society for this group. If a case comes to the prosecutor and the offender has not been offered victim-offender mediation, the prosecutor can send the case to the mediation service before taking it through the court system if he/she considers it suitable for mediation.

Victim-offender mediation is a complement to the traditional justice system although there are possibilities for making it an alternative in non-serious cases.

Mediation can be offered at any stage in the justice process. Most common is for mediation to be offered subsequent to the completion of the criminal investigation but prior to the initiation of court proceedings. According to the Act, however, mediation can take place at any time before, during or after court proceedings. By law, the prosecutor may take account of the fact that mediation has taken place and this may be used as one of the grounds for a decision to dismiss a case, though it is very rarely the only reason. Where a decision is made to dismiss a case, or to reduce the size of a fine, as a result of mediation the cases normally relate to

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shoplifting or similar minor offences. If the prosecutor is to take an agreement reached during mediation into account, mediation has to have taken place prior to the court proceedings.

Only a few mediation services claim to work with both juvenile and adult offenders. Victim-offender mediation in the prison context has attracted much interest but so far has not developed into practical work.

3. Implementation

3.1. Agencies: establishment and structure

Prior to 2003, the development of victim-offender mediation in Sweden was spontaneous, and for the most part initiated by social workers or local crime prevention boards. From 2003 the government commissioned the National Council for Crime Prevention (Brottsförebyggande rådet) to develop mediation services in Sweden so that they were conducted to a high quality and available in all municipalities across the country. The National Council's task involved distributing financial support to municipalities to initiate and develop existing mediation projects, providing training for mediators, and assuming responsibility for improvements in the methods and quality of mediation. The National Council's commission was concluded at the end of 2007 and responsibility for victim-offender mediation was transferred to the Department of Social Services. They will evaluate mediation in three years time.

Victim-offender mediation is now part of the regular work of the social services and is governed by The Department of Social Services. The government provide funding to the municipalities for providing victim-offender mediation. This amounts to 26 million SEK per year, for at least the next three years. The Department of Social Services will not provide any form of training for mediators. The view is that the municipalities must purchase training services from private training consultants since the municipalities already receive government funding for the provision of mediation services and this should be included. Nor will the Department be providing administrative or organisational support at the regional level.

Where an agency other than the social services provides victim-offender mediation, the municipalities purchase this service from the service provider who is in turn responsible for organising collaborations with the police, prosecutors and social services both on the spot and within other municipalities.

3.2. Referral numbers and outcomes

3.2.1. Mediation Services

In the last year of the National Council for Crime Prevention's work with victim-offender mediation, a large proportion of our efforts were focused on developing regional contact points all over Sweden. The task of the regional contact points was to administer and organize victim-offender mediation and to develop and maintain collaborations with the police, prosecutors, social services and other relevant agencies at the regional level, as well as helping municipalities to initiate and develop services. This was successful and mediation is at present conducted in 254 of the total of 290 municipalities in Sweden and covers 87 % of all municipalities. The 36 municipalities that at the time of the survey (November 2007) could not offer mediation, say that they will be able to do so from 1st January 2008. These municipalities account for about 95 percent of the total population, since all of the densely populated municipalities are able to offer mediation.

There are a total of 160 mediation services comprising anything from 1 to 16 municipalities working in collaboration.

28 services comprise just a single municipality with no collaboration with other municipalities.

In 105 of the mediation services, mediation constitutes part of the everyday work of the social worker.

94 municipalities collaborate with between 1 and 15 other municipalities.

20 municipalities purchase mediation from another municipality.

7 municipalities have chosen other solutions, e.g. with local Crime Prevention Boards or Victim Support Services providing victim-offender mediation.

3.2.2. The Mediator

There are just over 400 active mediators in Sweden. 141 services use social workers as mediators and 45 services use volunteers. 115 use only social workers and 19 only volunteers and 26 services use a combination of both. In total there are 272 active social services mediators and 125 active volunteers.

3.2.3. Referrals

Referrals mainly come from the police, but also from the social services. Prosecutors, schools or crime victims each refer small numbers of cases. Anybody can refer a case and in the future it is expected that more cases will be referred by prosecutors, as previously stated.

3.2.4. Offences

The most common offence types referred to mediation are shoplifting, assault and vandalism. Other common offence types include various categories of theft, threatening behavior, robberies from shops and muggings.

The majority of the offenders are between 14 and 17 years of age. This will probably change and we will see the age rise as the new act comes into practice. Two-thirds are boys and one-third are girls. The high proportion of girls is in part associated with the large number of shoplifting cases. In approximately 40 per cent of mediation cases, the victims have been private individuals, aged between 6 and 88 years. Of the cases going to mediation, 40 per cent have been concluded with some form of contractual agreement. The majority of these contracts relate to future behavior, but contracts specifying financial compensation or work are also common. When The National Council for Crime Prevention conducted their survey in November 2007, the number of cases referred to mediation had increased dramatically. There were 3000 cases referred to mediation in 2007, of which 1500 had been mediated, with a large number of cases were still being handled. So the total number of cases at the end of 2007 can be expected to be well over 2000.

4. Evaluation

The National Council for Crime Prevention will publish a qualitative study on victims' and offenders' experiences of mediation during the spring of 2008. In three years time the Department of Social Services will evaluate the work of victim-offender mediation in Sweden.

There are two interest organisations for mediation and victim-offender mediation in Sweden. It is possible that their work will assume a greater significance in the future and that the field may expand to include other areas of work where mediation might be used as a method, for example in schools and within the community at large.

5. Contact address

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6. Published literature

In Swedish with a short English summary
Medling vid brott i Sverige under 2000-talet
Rapport 2005;14, Brottsförebyggande rådet

In Swedish
Medling vid brott – en handbok
Brottsförebyggande rådet 2007

In Swedish
Att förändras genom möten – en intervjustudie med gärningspersoner och brottsoffer.
Brottsförebyggande rådet 2008