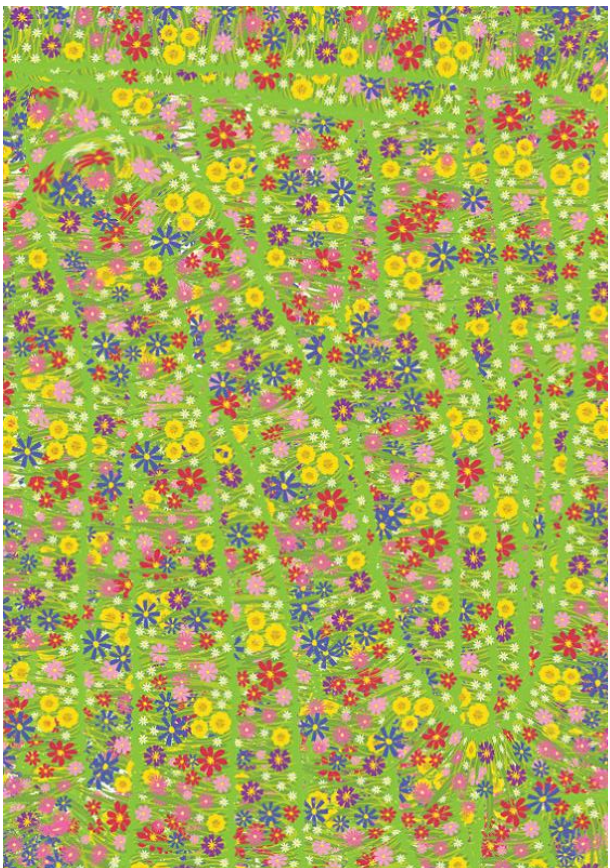


European Forum for Restorative Justice



**Practice Guide on
Values and Standards for
restorative justice practices**

CONNECTING PEOPLE TO RESTORE JUST RELATIONS

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If you want to share your thoughts about this Practice Guide, please share them with the EFRJ Secretariat at info@euforumrj.org.



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Connecting People to Restore Just Relations

Practice Guide on Values and Standards for restorative justice practices

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Intro- duction

The European Forum for Restorative Justice is an international network organisation connecting members active in the field of restorative justice as practitioners, academics and policy makers throughout Europe and beyond. The European Forum for Restorative Justice promotes policy, practice development and research so that every person may have access to high quality restorative justice.

Restorative Justice is an approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement

on how the harm or wrongdoing can be repaired and justice achieved.

The field of restorative justice is growing rapidly throughout Europe. Such growth brings great benefits to individuals and society. However, there are also risks. Many practices being labelled restorative when clearly they are not. A lack of sufficient attention being paid to safeguarding participants and to the quality of the organisation and facilitation of restorative processes resulting in poor outcomes and having a negative impact on the credibility of restorative justice with the public.

The Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and the CM/Rec(2018)8 Council of Europe Recommendation concerning restorative justice in criminal matters are important international documents providing a basis for standards of practice which safeguard participants and assure high quality processes.

This document is designed to offer guidance and support within the field of restorative justice. It is not intended to be prescriptive as there is also a risk in standards that are too rigid restricting innovation and creativity. It is also based upon the recognition that there are many contexts in which restorative processes can be applied, there is a growing variety of restorative processes and that critically the process must fit the needs, capabilities and cultures of diverse participants.

In a nutshell

In what situations can restorative justice apply?

Where people experience harm in society, in organisations, in schools, in families and in the justice system.

What values guide restorative practices?

- Justice
- Solidarity and responsibility
- Respect for human dignity
- Truth

What principles of practice work best?

- Voluntary participation based on informed consent
- Direct and authentic communication
- Processes designed to fit the participants' needs, capabilities and culture
- Value each participant's needs and wishes equally
- Non-judgemental, multipartial facilitation
- The importance of dialogue
- Rigorous implementation of agreed actions

What results can be expected from restorative justice?

- Greater involvement and satisfaction in the justice process by ordinary people
- Saves money
- Supports desistance from offending
- ! But only if based upon best practice

In what situations can restorative justice apply?

The values, principles and practices of restorative justice are relevant to many of the social, cultural and personal problems facing modern Europe.

General crime such as theft and violence, hatred for another's race, culture, religion, gender, or sexuality, violent extremism or terrorism, and street violence and disorder cause fear and anger among large sections of the population. Many of these harms are experienced in schools and neighbourhoods.

The criminal justice system and other regulatory systems do, of course, respond to infractions of rules and the law. However, they do not directly engage with the lived experience of the people most affected by these harms. They tend to focus on the perpetrator and to neglect victims. They struggle to address the distressing emotions that arise from harm and conflict. Further the system is not designed to build social relationships and cohesion, to enable people of different cultures to meet and understand each other, and to develop a greater sense of respect and reciprocal obligations between citizens.

Restorative justice has demonstrated its effectiveness in addressing the underlying causes and in generating solutions to many contemporary social problems; building and repairing social relations, generating mutual understanding between antagonistic individuals or groups and strengthening personal responsibility to respect the feelings, needs and values of others.

Rather than keeping people apart or excluding those perceived as a threat, restorative processes restore safety and security through bringing people together to undo injustice, repair harm and alleviate suffering through dialogue and agreement.

So out of these volatile social conditions there is the possibility of new forms of community and connection emerging. This is accomplished through paying attention to and responding to the lived experiences of those who suffer most from the injustices and harms in society. Restorative processes are a realistic and practical response to social inclusion and social integration.

Restorative justice is relevant to and effective in the contexts of justice, security, peacebuilding, education, social development, family support, children's rights and wellbeing, as well as organisational and community life.

The EFRJ is committing to connecting people so that they can build and sustain just relations in society.

What results can be expected from restorative justice?

Most empirical research on the benefits of restorative processes has been conducted in the context of the criminal justice system. Nevertheless promising results have been found in relation community based restorative justice, for example in intercultural contexts¹ and in schools².

Victims and perpetrators of harm and the community generally want to participate in restorative justice

1. Victims will meet those who have offended against them for many reasons including to ask questions, to seek reparations³, to advance their healing.⁴ In some cases victims hope that they can prevent reoffending and lead to a safer society.⁵
2. Most offenders to repair the harm that they have caused.⁶ they wish to express their remorse.⁷ In some cases the offender may want to avoid prosecution.⁸
3. The community's understanding of the crime which can result in the reintegration of offenders and more support for victims.⁹ The participation of people from the community may persuade the offender to take responsibility.¹⁰

Victims and offenders have a much more satisfactory experience of justice.

4. Restorative processes engage the participation of victims and perpetrators more effectively than the traditional justice system.¹¹ Victims' needs and interests are taken into account.¹² Offenders also believe that they are treated more fairly than through traditional justice.¹³ Both parties associate restorative justice with fair treatment.¹⁴
5. Offenders appreciate the opportunity to meet the victim, to actively participate and to express remorse.¹⁵ They have been found to have a more positive attitude towards police and law.¹⁶ Restorative justice often helps to strengthen

relationships with their friends or relatives,¹⁷ encouraging the desistance processes.¹⁸

Restorative justice saves money

6. Restorative Justice reduces the costs of reconviction.¹⁹ Victim Offender Mediation takes a third of the time needed for non-mediated cases.²⁰ Meeting with the offender has been shown to reduce post-traumatic stress symptoms of victims.²¹ Moreover, it can have therapeutic benefits for family members of homicide victims.²² Such long-term health benefits can reduce health costs paid by taxpayers.²³

Restorative processes result in positive outcomes

7. Research has found that restorative justice was more successful in improving victim and offender satisfaction, decreasing recidivism of offenders and increasing offender compliance with restitution when compared to more traditional criminal justice programmes.²⁴ Studies consistently state that restorative processes achieve at least 85% satisfaction among victims²⁵ and reduce the fear of further harm to the victim.²⁶
8. Studies confirm that restorative justice stimulates desistance from offending.²⁷ This is due to feelings of remorse, not being made to feel a bad person, feeling involved in decision making, agreeing with the outcome; and meeting and apologizing to the victim.²⁸ This process confirms a pro-social identity.²⁹

To achieve these outcomes restorative practices must be of a high standard

9. Restorative justice offers another way of dealing with crime that takes the needs of victims, offenders and their communities into account.³⁰ There is no evidence that certain types of offences or offenders are more or less suitable for restorative justice.³¹

It is crucial that RJ professionals continuously work towards a high quality practice. This includes providing a safe, neutral and confidential setting and attention for the wellbeing of all participants.³² Practitioners should be well trained and qualified for the job. They should also provide clear and honest information that allows involve parties to make an informed choice about participation.³³

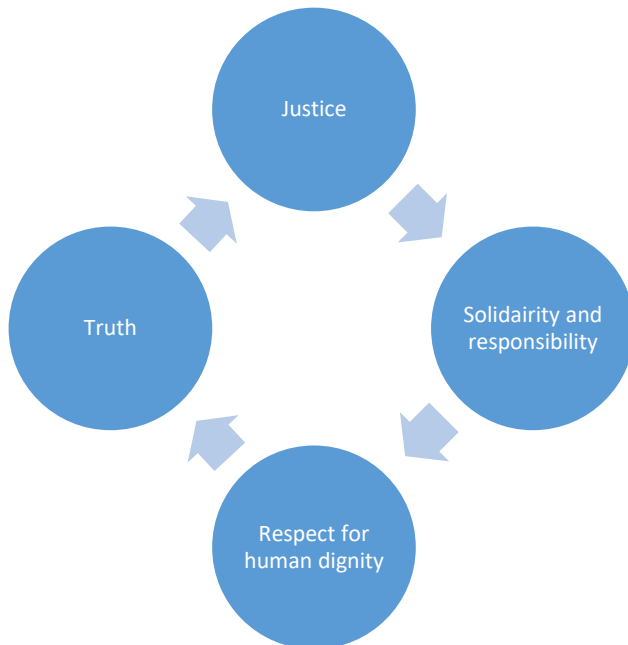
Good practices allow victims to use their victimization to a constructive end, thus finding meaning in adversity.³⁴ If standards are held high, restorative justice offers a more humane approach to dealing with crime by putting the recovery of victims and the desistance of offenders first. It is also important to ensure that the justice system does not distort the restorative process.³⁵ When victims are not satisfied by the process, this is usually due to a lack of attention to their needs,³⁶ often because more attention is given to offenders.³⁷

What values guide restorative justice?

General values

1. Restorative justice works within the boundaries and protections of human rights and the rule of law.
2. It does not discriminate on the basis of gender, race, religion, ethnicity or sexuality.
3. It supports the active participation of people within democratic societies as active and equal citizens.

Values which are important to restorative justice



Justice

The focus of restorative justice is on harms which are unjust or wrong. Some restorative practices are designed to prevent injustices by engaging people in just relations, while some undo an injustice through people making themselves accountable, repairing the harm, and acting to alleviate suffering and to reduce the likelihood of further harm. For this to be effective the restorative process should be fair and as far as possible not dominated by any party.

Solidarity

Restorative justice recognises the interdependence and diversity of people and the critical importance of the quality of relationships to individual's wellbeing and social cohesion. It provides an opportunity to reconnect and to learn how to fulfill one's obligations to each other's wellbeing. For this to be effective the restorative process should enable people to assume personal and social responsibility for their words and deeds.

Respect for the dignity of people

Restorative processes work because they include all those affected by a harm or a risk of a harm and because they assume that all human beings are valuable and have the intelligence, knowledge and capabilities to address issues that concern them. For this to be effective the restorative process should generate the safety and respect required for people to feel an ownership of the process and to speak freely.

Truth

Restorative justice enables each person to give a true account of the harm or risk of harm as they experience it. It recognises that each person's account contains truth but may not be the complete truth. Something closer to the complete truth emerges from questioning and dialogue. For this to be effective all participants need to understand the importance of telling the truth and of being sincere in their intentions and in the commitments that they make as a result of the process.

What principles of practices work best to express these values and to generate positive results?



Principle 1: Restorative values and positive outcomes are best served when communication between the parties is direct and authentic.

Face to face meetings are favoured though this may not always be possible. This requires the restorative process to be inclusive.

Principle 2: Restorative processes should be designed and facilitated to fit the needs, capabilities and culture of the participants.

This means that restorative processes should not be designed to be ‘one size fits all’ or prescriptive in their delivery.

Principle 3: The effective participation in restorative processes is enhanced if each person’s capabilities, views, emotions and needs are equally recognised and valued.

The invitation to participate and preparation for participation are key phases of restorative processes in implementing these principles.

- 1 *Invitation to participate: People should only participate on the basis of fully informed consent.*

- 1.1 Each party should understand the purpose, ground rules, process and what is expected of them prior to consenting to participate. There should be no attempt to pressurise an individual to participate.
- 1.2 The process should be designed to fit the needs, capabilities and culture of the parties. For this reason it is useful to listen to and fully understand each person's narrative before explaining how the restorative process will address their needs and accommodate their capabilities and culture.
- 1.3 Each party should be invited to talk about any concerns or fears that they may have about the process. The practitioner should explain how these concerns will be addressed. It is important that every individual should believe that the process will be safe (though not necessarily comfortable). There should be clear ground rules. Voluntary participation includes that each individual should be aware that they can cease their participation in the process at any time. Refusal to participate in a restorative process should not have any consequences in any further criminal justice process.
- 1.4 Any practical obstacles (transport, time, venue, domestic responsibilities etc.) should be overcome as far as that is possible.

2 *Preparation to participate: People should be prepared so that they feel capable of active participation in the process.*

- 2.1 When appropriate, participants should be invited to bring supporters to the meeting.
- 2.2 Participants should be aware of how the process will proceed and what is expected of them so that they can prepare what they wish to say and how they wish to say it.

Principle 4: Restorative values and positive outcomes are best served through dialogue among the participants leading to mutual understanding and agreed action. People need each other to repair harm and to resolve issues.

Dialogue involves a conversation focused on reaching mutual understanding on issues and agreement on what to do. The key task of the practitioner is to keep the dialogue on track and facilitate the participants to talk with each other according to the ground rules.

3 Communication between the participants:

- 3.1 The form of the restorative process should be chosen and designed to fit with the needs, capabilities and culture of the participants.
- 3.2 Each participant should be supported to articulate their experience of the harm or issue in a manner of their choosing.
- 3.3 It is important that each participant feels able to express their emotions, needs, questions and requests freely.
- 3.4 Communication between participants should be respectful.
- 3.5 Agreements should be based upon a mutual understanding of the harm or issue and the obligations that arise from this understanding, should be freely entered into and should be specific on actions, on responsibilities and on time limits.

Principle 5: Actions agreed through a restorative process should be implemented rigorously.

For restorative justice to be trusted by participants and the general public, the agreements made must be honoured explicitly. This requires personal responsibility, social support and a means of accountability.

4. Implementation and review of any action agreed

- 4.1 Those responsible for agreed actions should receive the support that they need.
- 4.2 Opportunities to review progress should be scheduled.
- 4.3 Those who fail to fulfil their commitments should be enabled to make themselves accountable.

How do we make sure people experience best standards of practice?

1. Introduction

The field of restorative justice includes an increasing number of contexts for practice and a consequent widening range of processes. A key principle is that restorative processes should be designed and facilitated to fit the needs, capabilities and culture of the participants.

As restorative justice is continually evolving as it meets new challenges and develops innovative approaches, any standards of best practice should be able to keep pace with change and should be reviewed regularly. This will be part of the work of the EFRJ Values and Standards Committee.

These standards are intended to encourage and enable practitioners and their managers to reflect continuously on restorative practices so as to ensure that they safeguard the rights and interests of participants and that they strive to practice at the highest level of quality.

Consequently they are not in the form of a list of tasks to be ticked off but in the form of questions designed to encourage conscious and reflective practice. Not all of these questions will be relevant to every context or type of process.

2. Organising the restorative process

- 2.1 Has care been taken to ensure that restorative process takes place in a safe, private and confidential

- environment and at a time that is convenient to all participants?
- 2.2 Was great care taken in the process of engaging and inviting people to participate in a restorative process?
 - 2.3 Were appropriate criteria followed in the event of an individual being excluded from the process?
 - 2.4 Was participation in the restorative process on the basis of free consent having been informed of rights, of the nature of the process, of clear expectations and of the possible consequences of participation?
 - 2.5 Were participants aware that consent can be withdrawn at any time during the process?
 - 2.6 Where appropriate, were participants aware that they can bring supporters?
 - 2.7 Has the practitioner taken responsibility for understanding and responding to participants' concerns over their safety?
 - 2.8 Were all obstacles to participation addressed?
 - 2.9 Did the design and choice of the restorative process meet the needs, cultural background and capabilities of the participants?
 - 2.10 Were all participants fully prepared for active participation in the process?

3. Facilitating the process

- 3.1 Was the process conducted in a safe setting for all?
- 3.2 Was the process conducted fairly allowing everyone to participate and ensuring that no person dominates?
- 3.3 Was the process facilitated flexibly to fit with the needs, culture and capabilities of the participants?
- 3.4 Was the perpetrator of harm given the opportunity to make him/herself accountable for what he/she had done?
- 3.5 Was each person enabled to enter into dialogue with others and to be understood?

- 3.6 Were participants facilitated to express their feelings and personal perspectives?
- 3.7 Did the facilitation of the process support a truthful and respectful dialogue?
- 3.8 Did the facilitation prove to be non-judgemental?
- 3.9 Were agreements arrived at voluntarily and only contained specific reasonable and proportionate obligations?
- 3.10 Did the agreement contain the ideas of the participants? Did the facilitator avoid giving ideas or suggestions?
- 3.11 Were the participants sincere in their commitment to do what they said they would do?
- 3.12 Did the participants receive adequate support to fulfil their commitments?
- 3.13 Was an effective monitoring, review and accountability system implemented?

4. Outcomes

- 4.1 Did the perpetrator take responsibility for the harm?
- 4.2 Was the impact of the harm including its wider impact or 'ripple effects' fully examined?
- 4.3 Were the participants honest in their account of the harm, its causes and its consequences?
- 4.4 Were the needs of each participants addressed to their satisfaction?
- 4.5 Was confidentiality observed as required by the ground rules and national law?
- 4.6 Was the agreed action reached voluntarily and specific, measurable, achievable, relevant to the issues raised by the participants and time scheduled for review and completion?
- 4.7 Was the perpetrator of harm supported and held accountable for keeping the commitments made through the restorative process?

- 4.8 Did each of the participants express a high level of satisfaction with the process and its outcomes?

5. Expectations of practitioners

- 5.1 Practitioners are expected to show compassion for the suffering of each participant, to be curious about the specific nature of each person's needs and wishes and to be committed to enabling each participant to achieve positive outcomes.
- 5.2 Practitioners should be non-judgemental and should refrain from exerting a dominant influence over the agreement.
- 5.3 Practitioners should have good communication and listening skills.
- 5.4 Practitioners are expected to be competent in their practice and to continuously seek further opportunities to learn and improve their practice.
- 5.5 Practitioners are responsible for the process and for ensuring that an agreement is reached.

6. Expectations of organisations offering restorative processes

- 6.1 Restorative processes offered by organisations should be informed by research and continuously evaluated to improve quality and effectiveness.
- 6.2 Organisations should respect the integrity of the values and principles of restorative processes.
- 6.3 Restorative processes should be facilitated by skilled practitioners who have participated in high quality training tailored to the processes offered by the organisation.
- 6.4 Organisations should offer getting new practitioners an opportunity to gain experience in a supportive environment, e.g. co-facilitating with a more experienced practitioner.

- 6.5 Organisations should provide practitioners with opportunities of (peer) supervision and advice on difficult or specific cases.
- 6.6 Organisations should provide safe forums for complaints and preferably should deal with these in a restorative manner.
- 6.7 Practitioners should continuously reflect and learn from their practice and be supported to do so through their managers and training.
- 6.8 Specific areas of restorative practice³⁸ will require practitioners trained in the specific knowledge and skills required.
- 6.9 Organisations should make the necessary arrangements for restorative processes to be delivered to a high quality within an agreed time span.

7. Expectations towards the legal framework for restorative justice

7.1 Policies and laws regarding restorative justice should be informed by restorative values and should actively support its principles.

7.2 The legal framework and institutional arrangements for restorative justice should ensure that restorative processes are implemented without compromising the key values and principles of restorative justice practices.

7.3 Restorative justice organisations should be provided with stable funding to operate.

¹ See for example the ALTERNATIVE research project: www.alternativeproject.eu

² For example of research into schools and restorative practices see <https://transformingconflict.org/research-and-evaluation/>

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- ³⁸ These may include domestic violence, sexual harm, violent extremism, hate crime.

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