

Restorative Justice for Victim Survivors of Family Violence

Framework

VICTORIA
State
Government

Justice
and Regulation

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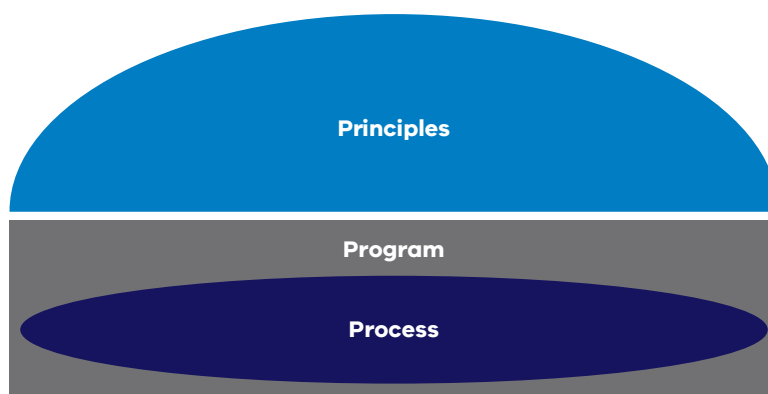
The purpose of this framework

The Victorian Family Violence Restorative Justice Framework is a response to a recommendation of the Victorian Royal Commission into Family Violence. The Commission recommended that the Department of Justice and Regulation develop a framework for restorative justice to be offered to victim survivors of family violence. The Commission recommended this be done in a way that holds victim survivors at its centre, incorporates strong safeguards, is based on international best practice and is delivered by appropriately skilled and qualified people. The Commission made this recommendation because it recognised that traditional justice approaches did not fully meet the needs of some victim survivors, and an additional service oriented to victim survivor needs was required.

This framework provides guidance to understanding the practice of restorative justice

and how it may be applied to develop and deliver programs and services for victim survivors of family violence. The framework is designed to be broad enough to apply to a range of programs and settings in which restorative justice may be practiced, but to highlight common elements that should inform all restorative justice programs for victim survivors of family violence. It is not designed to cover the detailed aspects of how any particular program operates, where it is located, what participants it is designed for or other program specific information. This is contained in documentation related to each of those programs.

The framework contains three interrelated sections for consideration: Principles, Program and Process.



The three sections of the framework should be considered as vital parts that form the foundation of a successful practice. The principles are the fundamental characteristics of victim centred restorative justice for family violence contexts and are central to understanding what it is and how it should be practiced. The program parameters outline essential elements to guide the development of individual programs to ensure they deliver on the principles, while process parameters outline the requirements for designing processes and contemplating how programs are delivered, including restorative justice processes such as group conferencing, victim impact panels and other options.

The framework is informed by international research and was developed through extensive consultation with experts in family violence, courts, policing, law, restorative justice, diverse communities, and specialist services. It builds on the knowledge and experience gained through that process and from existing programs and frameworks in use in Victoria and other jurisdictions including Youth Justice Group Conferencing at the Children's Court and Community Restorative Justice at the Neighbourhood Justice Centre in Victoria, Community Sentencing Forums and Victim Offender Conferencing in New South Wales, the work of the Restorative Justice Unit in Australian Capital Territory and Project Restore in New Zealand.

Definitions

What is restorative justice for family violence?

Restorative justice supports victim survivors to communicate about the harms they have experienced in order to heal and move on. Participation in restorative justice is voluntary, and safety and wellbeing take precedence over all other considerations.

Because restorative justice for family violence is centred on the needs of victim survivors, the type of communication is tailored to meet their needs. The communication may take the form of:

- **Group Conferencing** – this process brings victim survivors and perpetrators (or in some cases representatives of either) together with others who have been affected by the perpetrator's behaviour and the incidents related to family violence. The conference (or conferences if one event is not sufficient) focuses on sharing the impact the family violence has had on victim survivors and others affected, and explores actions that might be taken by participants to alleviate the harm suffered and facilitate healing and moving on. A group conference is a structured and planned process which focuses on specific outcomes and may result in an agreement between the parties.
- **Victim Impact Panel** – this process allows a victim survivor to address a specific audience in a structured way to achieve similar aims of sharing their experience and the impact of family violence but without directly involving their perpetrator. They may speak to other perpetrators of family violence, members of their community or representatives of the services and institutions they have been involved with in the course of their family violence journey.
- **Facilitated Conversation** – this process is tailored to support a victim survivor to communicate with their perpetrator where a victim survivor has expressed specific aims which cannot be met through group conferencing or victim impact panels.

- Variations of the above tailored to victim survivor needs – this may be a process such as supporting a written statement or letter, making a submission or presentation in a forum designed to share their experience for their own restorative benefit.

Restorative justice processes may include any of the people who have been affected by or who have been involved in the harm, including the perpetrator. If they participate, the process can provide an opportunity for perpetrators to take responsibility for their actions.

While restorative justice in some contexts is used as a diversionary or perpetrator accountability mechanism, as it is with youth justice group conferencing, in the context of family violence this is not the way restorative justice can be practiced. The unique dynamics of perpetrator behaviour and capacity to manipulate and retraumatise victim survivors means the focus must remain solely on the victim survivor. This recognises the power imbalance between victim survivors and perpetrators within a family violence context and aims to support the victim survivor and reduce the power the perpetrator holds. It offers victim survivors an opportunity to have the harm they have been caused acknowledged and to seek ways to increase their sense of control over their own lives.

Restorative justice is an independent process and is not linked to a victim survivor's engagement with traditional justice responses. It is not a court, dispute resolution or mediation service aimed at establishing facts or negotiating an agreement for a plan of action.

What is family violence?

Family violence occurs when a perpetrator exercises power and control over another person. It involves coercive and abusive behaviours by the perpetrator that are designed to intimidate, humiliate, undermine and isolate, resulting in fear and insecurity. It covers a wide spectrum of conduct that involves an escalating spiral of violence.

Although every experience is unique, family violence is not a one-off incident for most victim survivors. It is a pattern of behaviour that can

occur over a long period of time and does not always end when the victim survivor ends the relationship.

Family violence can take many forms. It can occur within extended families, kinship networks, intergenerational relationships and through family-like or carer relationships.

- Intimate partners, family members and non-family carers can perpetrate violence against people with a disability.
- Young people can use violence or be victims of violence within their family.
- Lesbian, gay, bisexual, trans and gender diverse and intersex (LGBTI) people may experience violence in their relationships or from family members.
- Elder abuse can be perpetrated by adult children of the victim survivor or non-family carers.
- Women and girls from diverse cultural, linguistic and faith backgrounds experience distinct forms of family violence including migration-related abuse.

This framework takes the meaning of family violence from *The Family Violence Protection Act (2008)* and includes:

- a) behaviour by a person towards a family member of that person if that behaviour—
 - i. is physically or sexually abusive; or
 - ii. is emotionally or psychologically abusive; or
 - iii. is economically abusive; or
 - iv. is threatening; or
 - v. is coercive; or
 - vi. in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or
- b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a).

Family violence includes the following behaviours:

- a) assaulting or causing personal injury to a family member or threatening to do so;

- b) sexually assaulting a family member or engaging in another form of sexually coercive behaviour or threatening to engage in such behaviour;
- c) intentionally damaging a family member's property, or threatening to do so;
- d) unlawfully depriving a family member of the family member's liberty, or threatening to do so;
- e) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the family member to whom the behaviour is directed so as to control, dominate or coerce the family member.

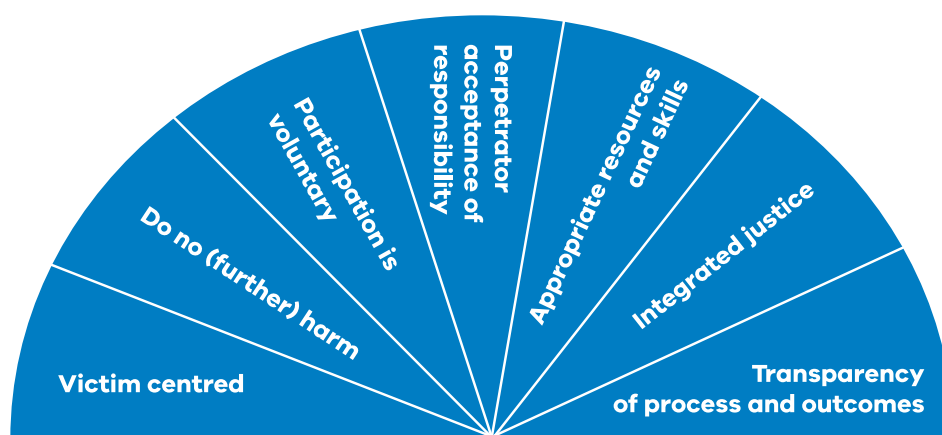
Behaviour may constitute family violence even if the behaviour would not constitute a criminal offence.

At the centre of all instances of family violence are the individual and structural power imbalances. To address this, we need to create a society founded on equality and inclusion.

Principles

The principles section of the framework distils those elements and characteristics of restorative justice practice that are essential, particularly in the context of family violence. They have been derived from research and consultation into the fields of both restorative justice and family violence and bring together

the therapeutic benefits of restorative justice with the safeguarding approaches of family violence specialisation. These principles should be central in understanding what restorative justice is and how it can be practiced with victim survivors and perpetrators of family violence.



Victim centred

At its core, family violence restorative justice is designed to deliver benefit to victim survivors. While others who participate may also gain benefit, the pursuit of these potential secondary benefits should not in any way compromise the primary aim. Equally, the ability of restorative justice processes or outcomes to contribute to other system or service outcomes should not compromise the primary aim.

Being victim centred also recognises that there is significant differences between victim survivors, their needs, aspirations and situations. Restorative justice must seek to achieve benefit for the victim survivor on the victim survivor's terms.

Some examples of the way a victim centred approach may inform restorative justice practice include:

- Victim survivors are fully **informed** and are able to provide **free** and informed consent to participate. This includes understanding where and how they can make choices and influence the way the process develops.

- The **nature and pace** of the process is driven by the **needs and readiness** of the victim survivor. These may include:
 - how long it takes to prepare for a process and how many meetings or processes are needed
 - in what forum they will tell their story
 - how their story is validated by others
 - what a perpetrator needs to do to demonstrate accountability
 - what a victim survivor might be seeking for restoration or achieving a just outcome
 - whether an agreement or practical plan is sought from the process.
- Consideration of **who participates** in the restorative justice process commences with victim survivor preferences.

- Victim survivors are motivated to participate in restorative justice for their own benefit and **without external pressures** from the perpetrator and other influences, such as the justice system, family violence services, families or communities.
- Victim survivors are **empowered** through engagement with the process to make decisions about how to repair the harm that has been done.
- Consideration of the needs of other victim survivors.

Do no (further) harm

All victim survivors of family violence have experienced trauma and may be experiencing ongoing trauma or the aftermath of that trauma. They face risks to their physical, emotional and cultural safety through the actions of their perpetrators and other people in their lives.

As restorative justice processes actively engage with victim survivors around their experience of family violence it may also directly or indirectly present a risk of further trauma. Restorative justice services hold the responsibility for minimising this risk. Risk needs to be assessed and managed dynamically at all stages of the process and upon completion, and additional services and supports need to be engaged if risk cannot be effectively managed.

- The physical, emotional and cultural **safety** of all participants is a fundamental concern, with a particular focus on victim survivors.
- Assessment of risk needs to be **comprehensive** in understanding the full context of the victim survivor's life, including the presence of other victim survivors.
- Restorative justice is only engaged where the expectations of victim survivors are **realistic and achievable**.
- The **power imbalance** between victim survivors and perpetrators is recognised and restorative justice will not be entered into where this power imbalance cannot be acknowledged and addressed in order to ensure victim survivor safety.
- Participants in restorative justice have a right to **privacy and confidentiality**, and these rights must be respected and protected by the process.

- Restorative justice is informed by the need for **respect and dignity** for all involved and delivered with balance and fairness.

Participation is voluntary

Restorative justice is only effective where participants can engage openly and honestly, acknowledging their own needs, behaviours and aspirations. They must be genuinely motivated to participate by a desire for victim survivors to achieve benefit and a belief that restorative justice can provide that. For this reason, those who participate must do so willingly and free of any coercion or incentive.

- Participation in restorative justice is voluntary.
- Victim survivors and perpetrators have the right to withdraw consent to participate at any time.
- Any agreements reached through the restorative justice process are entered into voluntarily.

Perpetrator acceptance of responsibility

The degree to which perpetrators understand and accept responsibility for the way their behaviour has impacted others varies between perpetrators and over time.

The greater the level of insight and acceptance of responsibility a perpetrator brings to restorative justice the better they are able to constructively contribute to outcomes for the victim survivor, but this does not need to be fully present from the outset of engagement. Many perpetrators gain this insight through the preparation for and engagement with restorative justice. Equally, not all victim survivors feel that their aims in engaging with restorative justice rest with a perpetrator's remorse or insight.

For these reasons the absolute threshold for a perpetrator to commence engagement with restorative justice is quite low, but this threshold may not be sufficient to allow for participation in a full process that brings them directly in contact with victim survivors. Where sufficient insight and acceptance of responsibility is not present or developed in a perpetrator to meet the specific needs of the victim survivor, the process may be ceased or redirected into a restorative justice process in which the perpetrator does not participate (such as a victim impact panel).

- The perpetrator must acknowledge their responsibility for or involvement in the incident, issue or pattern of behaviour which has caused a victim survivor or victim survivors to seek engagement with restorative justice.
- The perpetrator must be prepared to listen to the experience of victim survivors and the impacts family violence has had on them, and constructively engage with the victim survivor's aims for restorative justice.
- Where victim survivors require it, a perpetrator must be able to express genuine remorse and make attempts to change their behaviour.
- There should be no extrinsic incentives for perpetrators to participate (such as sentencing discounts or parole considerations) which may mask or compromise the honesty of their motives to participate.

Appropriate resources and skills

Engaging in restorative justice is a significant undertaking for vulnerable people. In order to be able to deliver benefits to victim survivors and to keep them safe they require highly skilled and comprehensive support. Like all interventions in family violence situations, restorative justice can expose participants to new risks or elevate their existing level of risk and this needs to be carefully assessed, monitored and responded to in a dynamic and ongoing way.

The need for appropriate resourcing can be seen in both the staffing and conduct of the process, and the way additional support needs are met through appropriate referrals and expert advice.

- Restorative justice must be appropriately resourced to ensure processes are not rushed or truncated to meet external demands but instead are managed to maximise the benefits to victim survivors.
- Appropriately skilled and accredited professionals must deliver programs and be supported with ongoing professional development and expert advice where required.
- Any agreements reached during restorative justice must be monitored over time to ensure victim survivors are not left with unresolved issues to manage on their own.

Integrated justice

Restorative justice should be viewed as part of a larger system of justice responses. It may be used by victim survivors of family violence who are engaged with other parts of the justice system, but also by those who do not wish to or are unable to. The purpose of restorative justice is different to that of traditional court responses and thus may be seen by some as a supplement to that response and by others as the primary response they seek.

Courts and police services play an important role in keeping victim survivors safe and holding perpetrators to account and keeping them in view. Restorative justice aims to support victim survivors in seeking to recover from family violence and achieve their own sense of justice. In some situations this may bring traditional justice and restorative justice together to improve outcomes in both processes, but in others separation between these processes may also be important.

Underpinning this is that neither response should prevent or disrupt the other. Court processes should not impede, constrain or hasten the progress of a restorative justice process to the detriment of the victim survivor or their ability to achieve the best outcomes possible from restorative justice. Equally, engagement with restorative justice should not constrain police or courts from holding perpetrators to account for offences they have committed. This may include not engaging with restorative justice at a time when a court case is underway or when facts are in dispute.

- Restorative justice runs independently of traditional justice system processes.
- Restorative justice may intersect with traditional justice responses but should not be impeded by it and it should not impede other justice responses.
- Engagement with restorative justice should not be seen as a substitute for criminal or civil law processes.
- Restorative justice recognises the role of the community in acknowledging and addressing harm.

Transparency of process and outcomes

Restorative justice is a tailored and victim centred process which has many variations. But those entering into restorative justice should be provided with a clear understanding of what lies ahead, what they can expect, where they will have choices and how decisions that affect them will be made. This is critical to managing expectations but also empowering participants to make decisions about whether and how they wish to engage.

While privacy and confidentiality will prevent details about individual cases being inappropriately shared, the broader lessons from restorative justice programs should be shared to encourage both continued improvement in restorative justice practice, but also improved experiences for participants.

- Administrative arrangements and restorative justice processes should be clear and transparent to everyone who engages with them.
- Findings and recommendations reached from evaluations of restorative justice should contribute to the understanding and practice of restorative justice and make improvements to programs.

Program

The program section of the framework provides guidance to the development of family violence restorative justice programs. It covers those elements which should be considered in program design and delivery to ensure it delivers on the fundamental principles.

Oversight and delivery	Types of RJ programs	Specialist skills	Flexible and responsive
Referral pathways	Assessment	Monitoring	Evaluation

Oversight and delivery

The organisational and administrative arrangements through which restorative justice is delivered can either support or hinder the program's ability to uphold the core principles for family violence restorative justice. The following criteria should be considered with reference to the principles and how the individual program can best provide for them.

- Restorative justice programs should be delivered through a dedicated specialist service in order to maintain the focus on the victim survivor and their safety and to ensure sufficient expertise is available.
- The functions of the service delivering the restorative justice program should include:
 - delivery and oversight of the service
 - development of guidelines, standards and documented processes to guide:
 - eligibility, suitability and readiness assessment
 - dynamic and ongoing safeguarding, risk assessment, monitoring and management
 - preparation phase for participants
 - restorative justice processes such as group conferencing and victim impact panels
 - follow up and monitoring of outcomes

- referral processes
- maintenance of training and accreditation requirements
- professional supervision and development practices
- monitoring and evaluation of service delivery and outcomes
- handling of complaints.

- The service should be:
 - independent of other services and processes which may compromise or hinder the purpose and objectives of restorative justice
 - well-resourced to ensure participants are adequately supported and benefits to victim survivors are real and lasting
 - accountable to and connected with the community who can contribute to addressing the harm.

Program participation

Inclusiveness should be the starting principle of restorative justice program participation, in recognition that victim centred approaches take their participation lead from the victim survivor's desire to engage. However, programs will necessarily be limited in their capacity to provide services and thus may require program based eligibility criteria to exclude some potential participants. Many factors may shape how and why a program designs its eligibility criteria.

Limitations should be expressed explicitly through eligibility criteria and may also be implicit in how services are promoted, advertised or referred into. Care should be taken to ensure that criteria for program exclusion is well correlated to the capacity and capability of the restorative justice service and its staff to deliver benefit to participants in a safe way.

- Restorative justice program eligibility criteria may be shaped by factors that support a safe, expert and timely service delivery such as:
 - what referral points connect victim survivors to the service and any linkages or relationships to other justice responses, such as current court cases
 - geographic location and proximity to services
 - cohort types that may require specific services or expertise such as children, members of culturally and linguistically diverse (CALD) communities and the Aboriginal community
 - the levels of risk already determined by other services or responses, such as inclusion in Risk Assessment and Management Panels (RAMPs).

Specialist skills

Staff who work to deliver restorative justice need high level specialist skills, and these skills cover both the conduct and management of restorative processes (such as group conferencing) and skills in dealing with people experiencing family violence. These skills will cover a range of areas, and some programs might require additional specific skills to respond to circumstances or participant needs.

- Convenors require a professional qualification, and substantial experience in facilitating group processes to reflect their role in running the restorative justice process. They also require deep knowledge and understanding of family violence, trauma informed therapeutic approaches, dynamic risk assessment and management, legal and court processes as they pertain to family violence, and the unique complexities and intersectionality faced by diverse communities, such as the lesbian, gay, bisexual, trans and gender diverse and intersex (LGBTI) community.

- Support workers for victim survivors and perpetrators need to be appropriately qualified and skilled to enable participation in the restorative justice process in a safe and effective way. This includes understanding family violence dynamics, trauma informed therapeutic approaches, risk assessment and management, the family violence service system and restorative justice. Where support roles are drawn from existing support networks for victim survivors or perpetrators, rather than from program based staff, assessment for suitability and capability must be planned for in the program guidelines.
- Specialist supports may also be required for specific needs or cohorts to supplement program based staff including interpreters, cultural liaisons, mental health or forensic assessors, child case managers, legal advisors, police, psychological support, alcohol and substance abuse workers and other therapeutic services. These must be highly skilled, experienced and appropriately qualified to meet the needs of the program.
- The skills and knowledge of people making referrals into and out of restorative justice are also important. This includes program based understanding but also skills in assessments and working with vulnerable people.
- All program staff should receive appropriate professional supervision and ongoing professional development based on professional and program needs.

Flexible and responsive

Programs developed to deliver restorative justice need to be designed to provide for flexibility in processes to better respond to victim survivors' needs, safety and risk. This need for flexibility may be expressed in a number of ways but it is important that programs present to victim survivors as responsive and have available to them a range of options to allow for this.

In recognition of the complexity and demands of engaging in restorative justice, programs need to allow for sufficient consideration and resources to support the participants in a restorative justice case for the length of their engagement in the program, including for the life of any agreements reached and post process follow up, in order to be sufficiently responsive.

The differing needs of participants, including safety and risk, may require a tailoring of some of the following aspects of the program:

- Location and nature of venues where meetings and processes take place may vary based on concerns victim survivors have related to safety, travel, discretion or association with other services or events.
- The timing and staging of assessments of victim survivors and perpetrators for suitability and readiness may need to respond to other contextual factors. This might include pausing assessments for a time while other issues are resolved for example.
- The existence of more than one victim survivor, whether they have directly sought engagement with restorative justice or been identified by the engaging victim survivor, may require additional considerations in the suitability and readiness assessments.
- The length and nature of the preparation process may need to vary to reflect the clarity and relative complexity of victim survivor expectations and aims or the perpetrator's insight and acceptance of responsibility, or the involvement of other affected parties.
- The number and type of restorative processes may need to be able to vary from a standard single event, victim impact panel or group conference to multiple conferences of affected parties, processes in which either the victim survivor or the perpetrator does not attend in person or where an additional process is added

after the initial restorative justice process to address residual or newly raised issues.

Referral pathways

Restorative justice is a process that most victim survivors will require assistance to understand and access. Open advertising and promotion of the service is likely to raise the expectation of participation, and potentially lead to traumatising disappointment where a victim survivor is unable to be accommodated within a program.

For this reason most programs will need to consider the entry point for restorative justice as a way to inform and connect participants to the service but also to apply eligibility criteria. For some programs this may allow for self-referral.

In developing referral pathways, programs should ensure:

- referral pathways are clear and articulate whether they allow for direct self-referral for victim survivors
- referrers are:
 - knowledgeable about family violence and restorative justice processes
 - clear that restorative justice is not a substitute for other justice or therapeutic processes
 - able to manage victim survivor expectations to not raise false hope about a victim survivor's suitability or readiness for the process or the outcomes it may achieve
- referral continuity is planned for with a strong preference for referrals being personally progressed by the referrer to the restorative justice service
- sufficient information is shared to reduce the burden on victim survivors to retell their story or verify the facts of their situation
- quality information about restorative justice programs is to be available, including online, to provide participants with more detailed resources if they wish to research their options
- where eligibility is not determined at a referral point (as would be the case for self-referral) the restorative justice service is capable of conducting the eligibility assessment.

Assessment for participation

To ensure that restorative justice can deliver benefit to victim survivors of family violence and be conducted in a safe way, those who wish to participate must be assessed for eligibility, suitability and readiness. These assessments need to be comprehensive and conducted by highly skilled people to ensure that those most at risk of adverse outcomes and retraumatising experiences are not accepted into the program. When there is any doubt about safety, risk or benefit, a victim survivor would be assessed as not able to progress. This is particularly true in relation to processes which bring victim survivors and perpetrators face to face and where factors relating to those victim survivors place them at higher risk either as a product of their particular family violence situation or their need for specialist skilled support.

Assessment is a two-stage process that includes an initial eligibility assessment conducted at intake and a more detailed assessment of need, suitability and readiness. Eligibility criteria can be understood as a base line of capacity to participate combined with any exclusion criteria that are program specific. Suitability assessments aim to establish the appropriateness of restorative justice for the participant's situation, and examines the complexity, risk and context that they would bring to the process. Readiness is assessed in relation to a more nuanced understanding of the participant's capacity to constructively engage with restorative justice, their level of insight, the clarity and realism of their expectations, their emotional stability and preparedness.

In practice, the suitability and readiness assessment and preparation phases may not be distinct, with participants undertaking some preparation towards restorative justice to more fully determine their suitability or readiness. Programs may also allow for assessments to be conducted over time, or to be paused to allow participants to undertake other work or for circumstances to change to allow them to be able to effectively participate, such as undertaking treatment programs or finalisation of court matters.

Program design needs to consider what tools and processes might be appropriate to support assessments, such as the endorsed risk assessment and management tools, how and what information might be gained through consultation with other services and supports and the role of professional judgement. Programs

also need to anticipate how an assessor responds to a difficulty in making a determination and how they may seek additional assessments from associated professionals and professional supervisors. Assessments involving more than one victim survivor may be particularly challenging for reaching a determination.

Assessment is a constant background process, particularly for risk and safety. Restorative justice may be stopped at any time, including immediately prior or even during a conference or panel, if a convenor or support person comes to believe a participant is no longer able to effectively or safely participate.

- Eligibility considers the minimum requirement to engage with a program.
 - Core eligibility for victim survivors:
 - Capacity to consent (cognitive).
 - Ability to provide free and informed consent (unconstrained).
 - Understand the process and their rights.
 - Core eligibility for perpetrators:
 - Capacity to consent (cognitive).
 - Able to provide free and informed consent (unconstrained).
 - Understand the process and their rights.
 - Accept responsibility or involvement.
 - Program eligibility requirements:
 - Individual program capacity, aims, and constraints.
 - Whether the program is equipped to meet the needs of victim survivors in regards to specialist supports and expertise.
- Suitability considers the complexity of the individual case with reference to factors such as:
 - the ability to keep victim survivors safe, including assessment of the level of risk and the implications on the safety of the victim survivors as a consequence of participating in restorative justice
 - intersection with other services and processes which may hinder outcomes of those services or processes or the

restorative justice process such as pending sentencing in a criminal case, contested family law or child protection issues

- compromised capacity for engagement with some participants such as mental health or substance issues, cognitive impairment, long standing and deeply entrenched abusive behaviours, multigenerational or community collusion
 - lack of supports and services available to stabilise or manage ongoing issues for participants
 - the presence of more than one victim survivor, the relationship between those victim survivors, the degree to which those victim survivors are equally suitable and ready and, the degree to which the needs of one victim survivor can be addressed without causing harm to other victim survivors.
- Readiness considers a victim survivor's and perpetrator's emotional insight and resilience such as:
 - fullness and clarity of understanding of restorative justice, what it can and can't achieve
 - insight into their situation, fullness of understanding of their options and choices for services, processes and other justice responses
 - well defined and realistic expectations for what they hope to achieve through engagement with restorative justice
 - where this is more than one victim survivor, the degree to which they have compatible aims and expectations or where there is conflict, whether that conflict can be accommodated and managed within a restorative justice process.

Monitoring

While restorative justice is a defined process, programs need to recognise that participants may not achieve full resolution or closure upon finishing a conference or impact panel. It is important for a restorative justice program to provide for post process contact and follow-up to monitor any agreements or undertakings made during restorative justice and to establish that no additional interventions or referrals are required to support participants.

- After the completion of a conference, panel or other process, follow-up is an essential component of restorative justice and programs need to be clear how they will:
 - monitor the implementation of any agreements or agreed plans
 - keep the victim survivors or perpetrators informed
 - ensure victim survivor and perpetrator wellbeing and organise referrals or interventions where needs are identified.

Evaluation

Restorative justice in family violence is an emerging practice that would benefit from a stronger evidence base. To ensure that programs are quality assured and to ensure that new programs are informed by demonstrated benefit, all programs should be evaluated.

- Evaluation frameworks and methodology should consider how to:
 - measure the extent to which victim survivor needs were met
 - measure the extent to which a range of other outcomes have been achieved
 - assure quality of service delivery and participant experience
 - ensure accountability and good governance
 - contribute to the evidence base about restorative justice for victim survivors of family violence and improved practice.

Process

How restorative justice is experienced by victim survivors of family violence has a significant influence over how much benefit they receive and how well their safety and risk is managed. The processes which govern their engagement with a restorative justice program and the restorative process itself can take many forms and this section of the family violence restorative justice framework outlines the important considerations and constraints in designing processes to deliver restorative justice in a program.

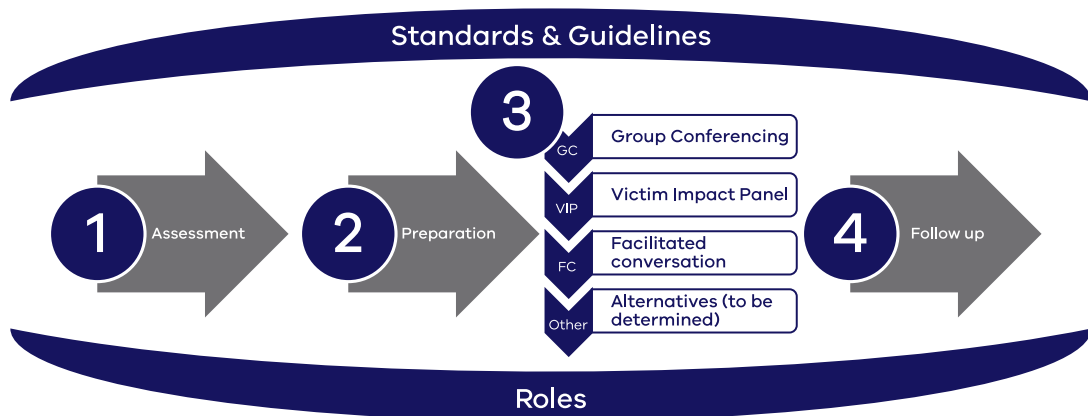
Consideration needs to be given at every stage to the way processes are experienced by victim survivors, and the way in which this can further rather than undermine the aims of restorative justice. This includes informing and making clear what to expect, directly involving victim survivors in decision making to empower them, and ensuring the process remains centred on their needs. The stages of the process that may involve third parties, such as sharing information with case workers or support services or making contact with other potential participating parties, should only be carried out with the consent and knowledge of victim survivors.

The information gained through engagement with restorative justice processes from initial assessment through to follow up and closure

should remain confidential, except where victim survivors choose to disclose or where disclosure is required in relation to specific safety or legal requirements. Any such requirements which may override the right to privacy and confidentiality should be discussed with all participants at the earliest possible stage. Consideration should be given to the implications of any legislative reform relating to information sharing or restorative justice practice.

Some process outcomes, such as whether a case will progress beyond initial assessment, may be able to be reported for some programs and in some clearly predefined ways (such as where there is a report back to a referral point). Any such reporting must be done in such a way as to ensure no harm can arise from this, particularly where a victim survivor may directly or indirectly be at risk of retribution or punishment as a result of honest participation in the process or a decision not to participate.

There is some overlap between this section and the previous section on program considerations which emphasises the need to think about many of the same issues when determining what a program should aim to do and how it should be delivered.



Assessment

The assessment stage determines the ability of participants to engage with restorative justice. In keeping with the key principle of victim centred, a victim survivor's eligibility to participate in the restorative justice program is a first step before progressing to a suitability and readiness assessment phase. After victim survivors are considered eligible, and depending on their circumstances and wishes, a perpetrator may also be subjected to eligibility, suitability and readiness assessment. In other words, a perpetrator is not the starting point for considering eligibility or suitability because it is a victim survivor led process.

Assessment determines the ability to participate but also provides the contextual and personal detail that determines what type of restorative justice process is best suited to the unique circumstances of the case. The process of assessment and the choices that are made around process should be clear and transparent to the participants, even where the details of the outcomes may not be fully shared (as may be the case to protect the victim survivor from retribution by other participants).

Assessment processes need to:

- be dynamic, ongoing and focused on risk and safety
- be transparent and clearly explained, both at the initial eligibility assessment and referral stage by the referrer, and again by the convenor or restorative justice intake worker at the restorative justice service. At the eligibility point this must include an open discussion of eligibility criteria. At the restorative justice service this should be a more nuanced discussion to explain the factors that are relevant and the tools and processes used to inform decision making
- respond to the needs of victim survivors in terms of locations, timing and pace
- involve victim survivors in decision making, and make clear where they cannot be involved and why (such as might be the case for mandatory reporting requirements or responding to immediate threats to safety)

- consider the involvement of parties other than the victim survivor as a matter of victim survivor choice where possible, but not where the harm experienced by the other party would be greater than the benefit gained by the victim survivor. This includes consideration of the participation of more than one victim survivor and a balance of their individual needs as well as their significance to each other's situation.

Preparation

The purpose of the preparation process is to provide victim survivors and other participants with a clear understanding of what will take place during the restorative justice process and of what they are seeking and hoping to achieve. Preparation should also acknowledge risks and have plans in place to prevent and manage those risks such that participants can be confident to engage and confident to assert themselves where they feel their needs are compromised or they feel unsafe.

Preparation, like assessment, needs to inform and empower victim survivors to understand their choices and the consequences of those choices. For example, consideration of who should participate (other victim survivors, perpetrator, family, community and supports) may impact choices for what type of restorative justice process is available.

Preparation needs to be carried out at the pace and in a way that responds effectively to the ability and needs of victim survivors and other participants. This may involve varying the sequencing of issues, delaying meetings, making referrals to provide other supports to the participants to assist them in becoming prepared.

- Preparation involves meetings between a convenor and participants, including support people, to provide an opportunity to discuss and clarify the process and the way individuals will participate in it. The number and nature of meetings may vary significantly based on the convenor and victim survivor's assessment of the best path towards preparedness.
- Preparation includes discussing benefits and risks related to participation, the involvement of other parties and participants, the degree and type of disclosures made and how these may be significant for other services and processes (such as mandatory reporting requirements or influence over court processes) in order to empower the victim survivor to make decisions about their engagement.

- Victim survivors and other participants need to be made fully aware of their own and others' rights and responsibilities, ground rules for participation, procedural rules for processes, and how to seek and access support or help. These include rights and responsibilities in relation to respectful behaviour, safety, the law, privacy, confidentiality and due process.
- Convenors need to use the preparation time to assess and identify any additional risks or needs which require a response, and provide referrals or plans for addressing these. They may also need to use this time to plan for and communicate about what will indicate that preparation is complete, or when a process might be ceased and why.
- Where there is more than one victim survivor, additional time may be taken in order to prepare each person individually, as well as together.

Restorative justice processes

Decisions about what restorative justice process is most suitable to an individual case will be made through the assessment and preparation phase. This decision is informed primarily by victim survivor choices, but also by safety considerations and suitability and readiness assessments of both the victim survivor and perpetrator. These assessments are particularly significant when contemplating processes which bring victim survivors and perpetrators together, such as group conferencing or facilitated conversations. Other factors may also be significant, such as the participation of more than one victim survivor, availability of parties to participate or the interaction of other processes (such as court cases).

From a process point of view, it is important that the decision making is transparent and involves victim survivors in an empowered and instrumental way, with a clear path from initial assessment, through preparation to process choice. This needs to support the victim survivor in choosing, but also accepting those factors which they may not be able to influence, such as the participation of their perpetrator, family, friends or members of their community.

The restorative justice process, including assessment and preparation should be confidential.

Individual restorative justice processes utilised in any program should be supported by substantive

standards, guidelines and protocols to ensure consistent and evidence based process.

Restorative justice process options include:

- Group Conferencing – this process brings victim survivors and perpetrators (or in some cases representatives of either) together with others who have been affected by the perpetrator's behaviour and the incidents related to family violence. The conference (or conferences if one event is not sufficient) focuses on sharing the impact the family violence has had on victim survivors and others affected, and explores actions that might be taken by participants to alleviate the harm suffered and facilitate healing and moving on. A group conference is a structured and planned process which focuses on specific outcomes and may result in an agreement between the parties.
- Victim Impact Panel – this process allows a victim survivor to address a specific audience in a structured way to achieve similar aims of sharing their experience and the impact of family violence but without directly involving their perpetrator. They may speak to other perpetrators of family violence, members of their community or representatives of the services and institutions they have been involved with in the course of their family violence journey.
- Facilitated Conversation – this process is tailored to support a victim survivor to communicate with their perpetrator where a victim survivor has articulated specific aims which cannot be met through group conferencing or victim impact panels.
- Variations of the above tailored to a victim survivor's needs – this may be a process such as supporting a written statement or letter, making a submission or presentation in a forum designed to share their experience for their own restorative benefit.

While the restorative justice process should be dictated by assessment of the victim survivor's situation and needs, other factors may also affect options, including:

- whether the perpetrator will participate
- availability and suitability of other participants
- links to other processes (such as court cases)

- the presence of community in the process (such as friends, family members, community representatives or other people affected)
- the presence of professionals (such as police, probation officers, defence counsel) in the process where their presence will influence the process or outcomes (for example in relation to confidentiality)
- whether the restorative justice process can be authentic, not be stage managed or coached.

Follow up

Follow up contact between the restorative justice service and the participants after a restorative justice process is fundamental to good practice, and this should be transparent and understood by all the participants during the preparation phase. Making contact with participants serves a number of purposes:

- Ensuring the wellbeing of victim survivors, perpetrators and any other participants. It may be necessary to make referrals where participants experience difficulty after restorative justice and a follow up provides an opportunity to ensure these referrals have delivered the benefit required, or for referrals to be made if issues arise after some time.
- Monitoring conference plans and outcomes that were agreed amongst participants. This assists parties to remain informed about progress without the need for contact between participants where this is unwelcome. While the service may have limited enforcement capacity where there is noncompliance, they can support the victim survivor in coming to terms with this and assist in identifying further options for them to pursue in terms of things like legal avenues or therapeutic support.
- Gaining feedback on the effectiveness and experience of the process. Participant responses to the process can be expected to change over time as they have an opportunity to reflect and see how their lives are changed. For evaluation purposes it is important to understand how participants feel about the process at each stage, how well the service is run and where it can improve, how well they were supported, how difficult the experience was for them, whether they felt they benefited from participation immediately after but also whether those benefits endured. Committing to this feedback is an important part of participation.

Roles

Processes which deliver restorative justice need to articulate the roles required to run the process.

Every victim survivor who is assessed as eligible and referred for restorative justice should be assigned a **convenor** to manage their case for the length of their engagement. It is the role of the convenor to manage the restorative justice process in an unbiased way.

While the convenor manages the process, restorative justice also places demands on participants that require additional **support**. A support role for each of the victim survivor and the perpetrator serves to ensure safety, monitor wellbeing and identify issues and needs.

Processes need to articulate the distinction between these roles, including how they interact and work collaboratively to manage the case through all stages of the process and provide follow up.

The inclusion of other people in a group conference or other process recognises that family violence occurs in a context that supports perpetrators' exercise of power over their victim survivors. It recognises that the way a perpetrator controls and manipulates victim survivors can be enabled by their friends, family and community, but equally that victim survivors can be supported by an aware and active community to redress this power imbalance and change the context. Including others in a restorative justice process is an opportunity to build awareness, recognition and active support for victim survivors and to reduce collusion and support for perpetrators and their behaviours.

Different participants may be prepared to attend for different reasons, though their assessment of suitability and readiness will only allow participation by those who can contribute to the attainment of the victim survivors' goals. Some may begin the process as active supports for victim survivors, making them feel safe and offering corroboration and constructive commitments to help the victim survivor recover and move on. Others may participate in the process to better understand the situation from the victim survivor's perspective as they may not be fully aware of what is happening or may need help in understanding how they can contribute to plans for future change.

Service standards and protocols

Restorative justice deals with vulnerable people in complex situations. Strong service standards and protocols support safety, quality and consistency in practice and give participants confidence in and understanding of the process. These can also be used to audit services and the performance of the people who deliver them, guard against practice drift and be used to make agreed changes to how processes and services work.

Each stage and process must have clear standards and protocols to make clear what can be expected at each stage of the process and how issues and problems will be detected managed and responded to.

Appropriate and transparent protocols are required that:

- maintain the safety of participants and the provider
- can be used to audit the performance of the service and provide for improvement
- ensure convenors are engaged with services who have the appropriate qualifications, skills and experience to deliver services and that the right convenor is assigned to each new case that is referred to the service
- allow for the monitoring of the performance of convenors and address performance issues if they arise
- facilitate regular supervision and training of convenors, including debriefing, peer review and professional supervision
- manages complaints.

