

# HOW-TO GUIDE:

## RESTORATIVE JUSTICE & MEDIATION

*"A restorative approach recognises the needs and purposes behind the misbehaviour, as well as the needs of those who were harmed by the behaviour. A restorative approach works with all participants to create ways to put things right and makes plans for future change...the focus is on healing..."*

*(Stutzman, Amstutz & Mullet, 2004)*

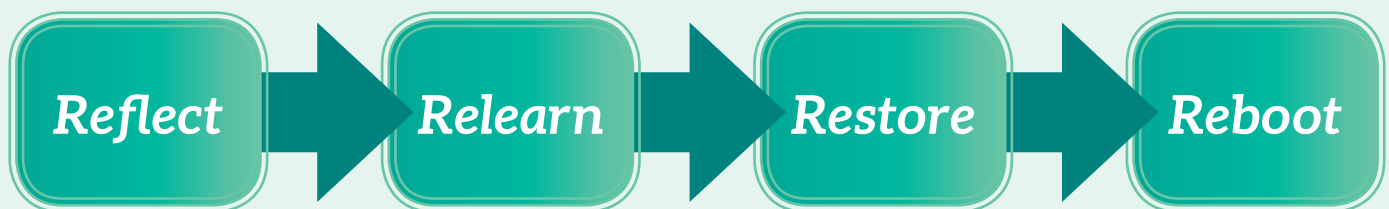
### Restorative Justice

Rather than simply punishing offenders, Restorative Justice (RJ) practices encourage accountability, peaceful co-existence and inclusion. It is focused on repairing the harm caused by the criminal behaviour/misbehaviour, to the individuals and the community as a whole.

#### RJ aims to:

1. **repair**: repairing the harm arising from misbehaviour/crime;
2. **encounter**: bring the parties together to reflect on the impact and come to mutually agreeable outcomes; and
3. **transform**: foster fundamental changes in people, relationships and communities.

Restorative Justice is not an easy option, but it does have the potential to break the cycle of offending and build positive behaviours. It involves perpetrators **REFLECTING** on their actions and the effects on other people, **RELEARNING** appropriate behaviours, **RESTORING** the harm they have caused and being given the opportunity to move on from their mistake (**REBOOTING**).



RJ relies on the cooperation of all involved parties to meet together (either in person, on the phone or in written form) to discuss the impact of the offence and what is a mutually agreeable restitution. A resolution is not guaranteed and all parties may not come to an agreement. Typically, the process results in enhanced empathy and an increased probability of reduced future hostility. The structured face-to-face interactions with allocated speaking opportunities enables people to 'see' one another and the real consequences of actions. Generally, there are 4 ways that the offender makes amends:

- **apology**: the three parts of written or verbal apology are acknowledgement, affect, and vulnerability, this is acknowledging responsibility, accepting the harm caused and vulnerability of the offender who gives the victim the power of response.
- **changed behaviour**: contracting to change behaviour which can be monitored in follow-up meetings.
- **restitution**: returning or replacing property, paying money, or providing direct services to the victim.
- **generosity**: the offender may gift the victim through community service etc.

For more information see <http://restorativejustice.org/about-us/>

## The Restorative Justice Process

When dealing with students who have harmed someone else or the school community, follow the Reboot steps outlined to support students to make positive change. At the start of the process, outline the steps with the student in a visual way and explain their obligations and opportunities at each stage. In many cases, harming behaviour results when the young persons' Emotional/Wild Brain is engaged in the fight/flight responses that are NOT controlled by the Smart Brain. To change behaviour the young person has to engage the Smart Brain: where they can reflect on their behaviour and decide what needs to happen next. **After using Reboot strategies to support the young person to de-escalate, the scripting below can be used.** The shared common language of Reboot and associated templates help to facilitate RJ processes which can span from half an hour to a few weeks.

### The Restorative Justice process is undertaken in the following steps:

1. **Identify all stakeholders** (who has been impacted by the harming behaviour). Keep the stakeholders separate until the Restoration phase.
2. **Allow de-escalation to take place.** Feed the Wild Brain and allow the time necessary for a student to be accessing the rational thought of Smart Brain. Provide water, space, a change in environment and something to distract their hands. It is important that students reflect when they are ready. You can also use **Reboot language support the young person to label their emotions and become calm** (access the Smart Brain.)
3. **Draw the sequence of events.**
4. **Support reflection by both parties (perpetrator and victim) separately** as per the questions below (see the script at the end of this document).

## Reflect

Students need to take part in a reflection process (see support questions at the end of this document) that allows them to:

1. **Identify the people involved.**
2. **Sequence the chronology of events.**
3. **Understand the impact of their actions.**

### Reboot Resources to support the Reflection process

- *Escalation Map / Feelings Tracker*
- *Emotional Brain: Power Over vs Power With*
- *Behaviour Reflection Sheet*
- *Positive Change Highway sheet*
- *Event Debrief*

*"The secret of change is to focus all of your energy, not on fighting the old, but on building the new."*

*Dan Millman*

## Relearn

After reflecting on their behaviour students will often experience shame, remorse and a renewed sense of helplessness which might at times be expressed as defiance, anger or arrogance. Students who have behaved whilst engaged in Wild/Emotional Brain will benefit from understanding the neuroscience behind their behaviour. This helps to separate the individual from the behaviour. Many students who have a history of behaviour incidents probably have a fixed mindset and believe that they "are too dumb" or "bad" and lack the agency and self-efficacy to effectively make change. They may experience a sense that things happen to them "Teachers pick on me" and a lack of power and control, "I can't help it." For students from families with a criminal/violent history, they may experience a sense of fatalism, "I'm bad like my brother." This perspective of self may have been compounded by the words and actions of significant adults and loved ones or a history of always being the naughty one in classes.

Teaching students that the brain is plastic and that new neural pathways can be laid down can help to build hope and allow them to feel in control. It is important that students understand brain development and learn self-regulation. Students wanting to make a sustained positive change will also need to make significant changes to their lifestyles and relationships and will benefit from 'feeding the Brains' education.

Functional Behaviour Analysis allows staff to guide students to new realisations about their behaviour. This can be a time where students are presented with data and are given the opportunity to draw their own conclusions. For example, if a student's primary function behind their behaviour is 'to gain peer attention', they may be able to reflect on why this is the case and offer solutions.



### Reboot Resources to support the Relearn process

- *How do you want to feel in this class? Form*
- *Feeding Your Brain plan*
- *5 Faces – What to do when I'm a 1*
- *5 Faces Worksheet*
- *I can calm my Wild Brain*
- *My Brain Needs...*
- *Ways to Fulfil your Brain*
- *When my Smoke Detector Goes Off*
- *Positive Change Highway sheet*

*“The most profound learning occurs when there is a healthy relationship between teacher and student. Restorative Practices assist teachers, students and parents to build, maintain and restore relationships. Restorative Practices will help build capacity to enable students to self-regulate behaviour and contribute to the improvement of learning outcomes.”*

<https://www.restorativepractices.org.au/>

## Restore

Restorative Justice is not a soft option. After students have reflected on their behaviour and come to a greater understanding of it, they are then held responsible by taking part in the restorative phase. This is the element where the victim lies at the centre of the process. In many cases, the victim may be the school community itself. The obligation to make things right now lies with the wrongdoer. Here are examples of Restorative Justice in action:

HARM CAUSED	PERSON/PEOPLE HARMED	SUGGESTED REPARATION
DESTRUCTION OF SCHOOL PROPERTY	<i>School Community</i>	Community service with a staff member who is responsible for upkeep of school property e.g. cleaner, groundsman.
TRUANCY	<i>Self/Teacher/School Community</i>	Students spends time getting work missed signed off by teachers to show that they are up-to-date.
IN-CLASS DISRUPTIVE BEHAVIOUR	<i>Teacher/Class Community</i>	Pre-organised meditation between teacher and student. Both parties are prepped before hand and understand the role they will play in the process.
BULLYING	<i>Peer</i>	Pre-organised meditation between teacher and student. Both parties are prepped before hand and understand the role they will play in the process. If victim feels uncomfortable, a written mediation agreement may be more suitable.

## Mediation

In any conflict there are 2 sides. Mediation is a positive problem-solving process that aims to identify the (at least) two perspectives, or two conflicting points of view and seeks to reconcile them through a positive action-orient process. Mediation can be used to reduce conflict and improve cooperative and positive outcomes for all. Any relationship and conflict can be the subject of mediation: students and their peers, teachers and students, teachers and their colleagues, parents and the school, parents and teachers etc. The conflict might have just arisen, be ongoing or well-established prior to school involvement. Individuals may simply present groups (such as between two cultural groups) or conflicts might be personal in nature. Regardless, all parties can benefit from a better understanding of the core needs that motivate one another's behaviours. Mediation can even be used to resolve internal conflict within an individual.

Effective mediation begins by uncovering the underlying needs that motivates the 2 conflicting points of view. Needs here refers to our intrinsic drives for common human needs ranging from basic existence needs such as food, shelter, and safety, to more complex needs such as respect, love, autonomy, meaning, contribution, and understanding. There is no one shared way people seek to have their needs met and as there are many ways to meet a need, once the needs of each perspective are known and understood, they are then connected through shared needs and a strategy can be found to reconcile the points of view.

Most mediations will lead to a written agreement which suggests a plan forward. Strategies will be included in the document so that the wrongdoer can be held accountable for not upholding these in the future. (See the [Reboot Mediation Agreement](#) document for a template.)

For people to be satisfied with the way a dispute or problem has been resolved, they need to feel that:

- The process was fair, i.e. their issues were heard and understood
- The agreement or decision reached was reasonable and fair
- The relationship between parties has been helped by the process
- They can manage their relationship in the future

## Mediation Process

In support of this process see the Reboot Mediation Script and also the Reboot Mediation Agreement.

1. **Meet with both parties independently:** discuss their version of events, why things happened (or what has been happening leading up to the event) and what they would like to see happen.
2. **Create the context:** a private space and sufficient uninterrupted time. Have the 2 parties join you in discussion. It can be beneficial to have preliminary conversations to prepare for mediation.
3. **Explain the process:** explain that each person has a chance to express themselves and we are seeking a united positive outcome
4. **Summarise what you have heard from both parties:** and ask both parties to add in turn any additional information while the other listens respectfully.
5. **Define the problems and concerns:** the concerns are clarified and an agenda is set by the mediator with participants, i.e. what is to be resolved and how might you get your needs met in a more productive way?
6. **Focusing on the future and finding solutions:** find solutions that help both parties meet the needs of the 3 Brains (i.e. what is your Wild Brain or Emotional Brain needing to be happy) and seek a solution from the parties themselves
7. **Conclude:** a shared agreement is confirmed and ideally written down.

### **It is important that a mediator uses the following skills:**

- A non-judgemental tone of voice and impartial body language
- Questions that will lead the discussion forward
- Active listening
- Acknowledgement of feelings
- Positive reframing of information

For additional information see: <http://www.vadr.asn.au/peer.pdf>

### **Reboot Resources to support the Restore process**

- *Relationship to Do's and Don'ts*
- *Mediation Agreement*
- *Restorative Justice Form*

# Reboot

Completing the first three phases of the Reboot Restorative Process can leave students feeling empowered with developed self-efficacy to create positive change. The Reboot phase is very important and should not be rushed even though the harm has been restored. This is an opportunity for students to plan for change, develop strategies to feed their brains and self-regulate, seek out appropriate support and role-models and adhere to an agreement which lays out future consequences. Inevitably there will be Speedbumps and Roadblocks in any change process and it's important that the student is both prepared and realistic.

During this stage, a student should identify a change s/he would like to make using the Positive Change Highway. Use the How to Guide: Positive Change Highway document to help students to plan for this stage. Challenge and address any counter-intentions that would undermine change using Motivational Interviewing as well. Teachers and other key stakeholders may also use this as an opportunity to meet to plan for a Safety Plan or develop other supportive strategies.

## Reboot Resources to support the Reboot Process

- *Personal Self-regulation Plan*
- *Strategies to Address Triggers*
- *My Top 2 Brain Foods*
- *Positive Change Highway sheet*
- *How to Guide: Motivational Interviewing*
- *How to Guide: Positive Change Highway*
- *How to Guide: Growth Mindset*
- *How to Guide: Quadrants of Engagement*
- *Safety Plan*
- *Individual Behaviour Support Plan template*
- *Growth Mindset Quiz*
- *What's stopping you from crossing the Line of Opportunity?*

## Why use a Restorative Justice framework?

Traditionally schools have relied on punitive systems to discipline. In some school environments it will take work to encourage all staff and students to use a more restorative approach. Frequent objections include:

- It takes too much time
- The perpetrator gets away with things and isn't punished properly
- It doesn't seem fair
- It will lead to increases in student misbehaviour
- I don't feel comfortable or familiar with the processes

When practiced well RJ has the potential to break the cycle of offending and create a community of responsibility. Developing an RJ culture will take both time and energy to develop and implement new practices. RJ is also a chance to build positive life and communication skills as students are navigating a range of peer disagreements and conflict at school and home on a daily basis. Well practiced, RJ processes help to:

- Encourage healthy relationships by increasing dialogue
- Explore the harm caused in an event, build empathy, and create a solutions focus
- Enhance awareness of social justice
- Give victims a voice
- Help those who are causing harm to find positive strategies to address their concerns and better self-regulate
- Build stronger conflict-resolution skills among peers
- Increase the sense of community ownership, and belonging within a school campus



## Restorative Justice Scripts

It can be helpful to print the below questions to enable you to focus on the conversation. It's important to ensure a follow up meeting is scheduled with all parties to monitor progress in a week or two.

### **When things go wrong: (to the wrong doer)**

#### **Tell the story**

- What happened?
- What triggered you? What were you thinking at the time? What number (5 Faces) or Brain were you in at the time?
- What have you thought about since?
- How did it impact your and other's learning at school?

#### **Explore the harm**

- Who has been affected by what you have done? In what ways? What number (5 Faces) or Brain do you think they were?
- Do you think that this might impact on their learning?
- What do you think that you need to do to make things right?
- What can we do to make sure that this doesn't happen again? (How could you feed your Brains better?)
- How can I help and support you? (see the Positive Change Highway)

#### **Repair the harm**

- How might you go about fixing things or supporting the person/people wronged?
- What exactly are you sorry for?
- How will your actions support other's learning?
- How will your actions support your learning?

#### **Reach an agreement**

- What do you need to do from now on? What Speedbumps and/or Roadblocks do you think that you might face?
- How could you better manage the way that you feel to reduce the likelihood of this happening again?

#### **Plan follow-up**

- When would be a good time to check in with you to see check you are on track with what we have agreed?
- How can I support you to make sure that this doesn't happen again? What strategies can we put in place and prepare to address the Speedbumps and/or Roadblocks that might come up?

### **When things go wrong: (to the person/people harmed)**

#### **Tell the story**

- What happened?
- What number (5 Faces) or Brain were you in at the time?
- What have you thought about since?
- How did it impact your and other's learning at school?

#### **Explore the harm**

- How has this impacted on you since? How has you been feeling (5 Faces or 3 Brains)?
- How has it effected your learning?
- What's been the worst of it?

#### **Repair the harm**

- What's needed to make things right?
- Is there anything that you are sorry for?
- What could you do to improve things for yourself? Can I support you in anyway? Are there any Speedbumps or Roadblocks you are expecting?
- How will these actions support your learning?

#### **Reach an agreement**

- What repair would you like to see happen?
- What steps could you take to support the person to enact this?

#### **Plan follow-up**

- When would be a good time to check in with you?
- How can I support you to ensure you are doing great in the meantime? What strategies can we put in place and prepare to address the Speedbumps and/or Roadblocks that might come up?

#### **When conversations seem stuck**

- What is the right or the wrong thing to do?
- Was it fair or unfair?
- What exactly are you sorry for?
- You didn't answer my question. I can see that this question is making you a bit uncomfortable.

## Mediation Scripts

In preparation for the mediation session it's important to speak with both parties separately and gain their perspectives. Once you have the information and both are prepared to meet and discuss a positive solution, bring the 2 (or more) together and complete the third section of this document.

### 1. In preparation for the mediation session:

#### With Party A:

- What happened? (You may need to ask, 'For you, when and how did this issue start?')
- What were you thinking at the time? (You can use Reboot Language and faces. What number were you, what Brain were you in?)
- If relevant, "It looks like you might have given your power away when you... what do you think?"
- What have you thought about since?
- Who else has been affected? In what ways?
- What's been the worst of it for you?
- How can we make sure that this doesn't happen again?
- What outcome would you like to see?
- Are there any Speedbumps or Roadblocks that might get in the road of things changing for the better?
- Is there anyone else who can help and support you?

#### With Party B:

- What happened? (You may need to ask, 'For you, when and how did this issue start?')
- What were you thinking at the time? (You can use Reboot Language and faces. What number were you, what Brain were you in?)
- If relevant, "It looks like you might have given your power away when you... what do you think?"
- What have you thought about since?
- Who else has been affected? In what ways?
- How can we make sure that this doesn't happen again?
- What outcome would you like to see?
- Are there any Speedbumps or Roadblocks that might get in the road of things changing for the better?
- Is there anyone else who can help and support you?

#### When conversations seem stuck

- What is the right or the wrong thing to do?
- Was it fair or unfair?
- What exactly are you sorry for?
- You didn't answer my question. I can see that this question is making you a bit uncomfortable.



2. **Bring both Party A and B together:**

*Thank you \_\_\_\_\_ and \_\_\_\_\_ for attending this mediation today. We are here to hear each other out and make a plan to improve things for both of you. We are not here to blame or judge but the mediation will help each of you to see the situation differently. We want to explore in what ways people have been affected and hopefully work toward repairing the harm that has resulted. Whilst the other person speaks, please listen carefully and do not interrupt and use formal language. This includes not using offensive language to each other. This process requires total honesty. If either one of you becomes very upset, we will end the mediation.*

*I will make notes while you speak so that we can have a plan to move forward by the end of this mediation today.*

3. **Summarise the information** gained from both parties leaving it open for them to add additional details.

4. **Decide on a mutually agreeable outcome,**  
e.g. to attend class peacefully together, to consider each other's feelings, to apologise etc.

5. **Close:**

*Thank you for your involvement in the mediation today, whilst listening to both of you, I wrote a plan for how we will move forward from now on. I will read it through now and when I am finished, I will ask you if the plan seems fair and reasonable. (See **Reboot Mediation Agreement** document.)*

6. **Read out the plan:**

*Do you both agree to the plan? Is it fair and reasonable? What do you think might happen if the plan isn't stuck to? Any Speedbumps or Roadblocks you are expecting or further thoughts?*

*Do either of you have anything further to say to each other now?*

*Please can you both sign the plan now? I will email the plan to both of you and keep a copy also.*

*Thank you for your participation today. It has been a very positive experience and I am looking forward to catching up with you in one weeks time at x am/pm in x room.*

