



RAINBOW DIVERSITY
INSTITUTE

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ALTERNATIVE RESTORATIVE JUSTICE PROCESS

PREPARED FOR:



GNSC Alternative Restorative Justice Process Purpose and Background

In response to the need to support an alternative restorative justice process, the GNSC hired [Rainbow Diversity Institute \(RDI\)](#) to support a collaborative consultation process and provide recommendations for an alternative process and provide recommendations.

RDI engaged in a comprehensive, collaborative review process which included two consultation working sessions followed by individual interviews to gather staff, board, and volunteer feedback. The following summary and report provide an overview of these consultation sessions along with recommendations.

Consultation Sessions

Working Sessions:

RDI facilitated two working sessions to gather feedback and input from employees, volunteers, community partners, and board members of GNSC. During the first working session, the RDI facilitator provided opportunities for participants to share their visions of a restorative justice process.

A significant theme that emerged through the working sessions was that participants wanted a process that was formalized, flexible, transparent and accountable. There was a general agreement that the process of going to the Executive Director (ED) has multiple potential barriers, such as a lack of capacity, time constraints, potential conflicts of interest and a lack of structure. Participants further expressed that although the ED has worked to support EDI and resolve issues, this is not sustainable long-term and should not be deemed the default formalized process.

Further, some participants felt that the grievance process was not widely shared within the organization and should be shared within orientation and onboarding. Some saw the lack of a comprehensive formalized onboarding and orientation as a significant barrier.

There are some concerns that EDI words are used, such as safe spaces, inclusion, and anti-oppression, but there is no consistent method to ensure that these principles are being embedded into the organizational culture. Participants shared the need for regular training as a possible solution.

A significant theme that arose consistently was the need for an alternative grievance process that prioritized restoration, justice, healing, and community.

Individual Interviews:

RDI conducted interviews with various stakeholders, including staff, board members, and volunteers at the GNSC, to gather feedback from people potentially impacted by the grievance process. Some participants had not been exposed to the Grievance policy outside of RDI's current review process.

Many participants felt that the grievance policy needed a more formalized process and that the process needed to expand beyond the ED in certain circumstances where potential conflicts of interest could arise, while others felt that the board should play a role in resolving grievances.

Some respondents shared that the process needed to be led by the individual who had been harmed and should have a reintegration process for the person who created the harmful act. The consensus here was restoration for both parties.

Communication was a common theme among respondents who felt that early communication when conflicts first arise could minimize escalation, along with active listening and early resolutions.

Some respondents shared that the GNSC also needed to know when to seek outside consultation and board advice to legally insulate the organization and ensure that the GNSC's obligations to staff were being met.

Lastly, the majority of respondents stated that accountability measures were needed to ensure that concerns were dealt with in a satisfactory timely manner.

GNSC Current Grievance Process

RDI reviewed the current Grievance policy and formulated the below list of considerations. The suggestions below are small changes that can easily be made to the policy to support changes immediately.

Summary of the Existing Complaint/Grievance Process

The current grievance process is located on page 13 of the Policies & Procedures Manual.

Section 3 is:

- 3.1 Dealing with Performance Concerns
- 3.2 Employee Dismissal
- 3.3 Grievance Process

The Grievance Process (3.3) comprises six bolded headings and ends with a flow chart illustrating the process. All text is in English, and 3.3 fills three pages of the 26-page manual.

The headings within 3.3 are:

1. Purpose
2. Policy
3. Open Door Policy
4. Rights and Responsibilities
5. Procedure
6. Definition (of Microaggressions)
7. 3 Stage Grievance Process (flow chart)

This section uses clear and direct language but would not be accessible to everyone. It includes both encouraging content (“This procedure may be used freely without fear of retaliation”) as well as statements that urge complainants to settle their concerns “as quickly as possible” and other points that, although not the intent, could be understood as discouraging people from making complaints.

Initial Considerations

1. Location within the manual:

- It is appropriate to include the complaints process within a Procedures and Policies manual; however, how it is situated and how it may be interpreted can bring challenges.
- To reach this part, staff have to go through sub-sections about “dealing with performance concerns” and “employee dismissal.”
- The title “Grievance Process,” although common and even standard, can be overwhelming for some folks.

Typically, organizations rely on their grievance process as the main and only effective way to attempt to create change, push for recognition of needs, shift practices or culture to be more tolerable or less toxic, and so on. Unfortunately, this potentially creates perceived tension in the relationship between organizations and members' needs.

2. Generalizing to all concerns:

The third sentence of Section 3.3 states, “This policy and procedure has been designed to address all types of workplace problems, including those of sexual and professional misconduct.”

Issues with safety concerns, imminent harm, legal implications, and other high-risk matters are lumped right in with worries about policies around lower-risk matters.

Questions to consider:

Does this mean that all concerns of authority figures are also handled this way with those they have authority over? or are those handled differently, and why?

The answer to these questions should be clearly outlined in the formal policy. Although many good practices are happening informally, it is important that these processes are clearly outlined within the grievance policy.

Lack of overt protections for all parties:

It is stated that “This policy is intended to encourage dialogue and positive confrontation of issues in order to affect prompt and responsible resolution.” The policy also says, “This procedure may be used freely without fear of retaliation.”

It is important that steps are outlined as to how retaliation will be dealt with, who is accountable to ensure fairness, and what steps would be taken if the employee or employer believes retaliation occurred.

3. *Desire for quick & individual resolutions:*

Section 3.3 urges members to settle things quickly and sets the expectation that members must attempt to resolve issues before engaging in the formal process.

Although communication may prevent unnecessary escalation in most situations, it is important to state that employees should proceed straight to a supervisor in situations where there is a safety concern.

4. *Executive Director accountability or alternatives:*

The open-door policy requires that members address the ED with concerns. However, it is important to remember that even though the current ED has made themselves accessible, the policy should address the role in general and not any current individuals fulfilling those roles, as this can change in the future.

Questions to consider:

1. How does the ED create a culture in which people regularly drop in to update the ED on how things are going, good and bad?

2. Is this culture sustainable in terms of capacity as the organization grows?
3. How is the use of an open-door policy normalized, encouraged, rewarded and recognized?

5. *Language aligned with policing, military, and penal systems of Canada:*

The term “investigation” seems to be key to this process. Defining key terms such as investigation and providing context and examples can be useful.

However, it may evoke thoughts of procedures used against civilians by police, the military, and the justice system. This association is made even stronger because 3.3 states that everyone is required to report and cooperate with investigations.

This is also in line with how targeted civilians are frequently treated by the police, the military, and the penal system in Canada and other parts of the world. It is important to remember that GNSC serves diverse populations, and terms like investigations can be received in different ways.

6. *Rights & Responsibilities section:*

This section may benefit, in addition to the bullet point list, a mind map or other graphic representation to increase accessibility.

GNSC Alternative Restorative Justice Process Project

This project aims to propose a framework that offers GNSC an alternative complaint process grounded in the concepts and ethics of Restorative Justice. This approach focuses on resolving conflict and developing mutually affirming agreements that meet the needs of all parties while also tending to the realities of the cultures and contexts of those involved.

No single approach to conflict resolution can meet the needs of all people or all situations; however, a flexible process with roots in anti-oppression, mutual respect, and community healing has the potential to be adaptable to a wide variety of uses.

Workplace disputes carry a unique set of consequences for people throughout organizations, from upper administration to part-time contract staff and at every level of power in between. They can also have implications for communities surrounding the organization and those in conflict, the people who work there, and the people and organizations they serve and work alongside.

Restorative Justice principles assume a huge power imbalance, as they are often utilized as a part of legal processes or as alternatives that may allow people to avoid typical legal processes.

Peacemaking approaches seek to neutralize power imbalances by using a wide range of techniques and components that recognize imbalances and seek to help those involved meet, express themselves, connect with and hear each other in transparent and humanizing ways. In addition, many hybrid approaches exist that seek to blend western and alternative approaches while recognizing that they can be challenging.

The steps outlined below are an effort to blend aspects of several approaches to conflict and complaint resolution while recognizing the common needs and limitations of organizations like GNSC. It is important to retain flexibility while being transparent about ways in which internal and external considerations restrict flexibility.

Step 1: Define the available approaches for various types of disputes, contexts, and stakeholders.

It can feel good to say that we handle every dispute or concern with an alternative process, mediation, restorative justice, an Indigenized approach, or other community-based methods. However, the realities of organizations and their workplaces mean that sometimes these promises cannot be upheld.

Policies, bylaws, funder agreements, legal consequences or risks, and organizational culture are some of the reasons organizations may need to follow set procedures that are not collaborative or community driven.

If a consequence is already determined, such as when an employee will be terminated or written up, it is generally not an appropriate time to use alternative resolution approaches. Typically only situations that are open to a collaborative decision-making process should be considered for alternative conflict resolution processes.

Situations in which someone is at risk of harm, or continued harm, may also be inappropriate for alternative resolution processes. For example, if one employee has harassed, threatened, injured, sexually abused, or committed hate crimes against another, pushing employees to engage in resolution processes that could expose the victim to further harm is not appropriate. Instead, the employees who have been harmed should be consulted; they may or may not wish to attempt a collaborative resolution process or may only be interested if certain safety assurances can be made.

Step 2: Set reasonable time and privacy expectations

Most organizations strive to resolve conflict as quickly and privately as possible. However, alternative conflict resolution processes do not prioritize conciseness nor isolate participants from support, resources, and relevant communities. If something must be resolved quickly or privately, it may not be suitable for an alternative resolution process. It is necessary for organizations to commit to a timetable that is flexible, transparent (if limited), and that will allow for all steps of the process to take place without rushing. It is always possible for participants to decline to continue the process. So it should be made clear what will happen if one or more parties quit the alternative resolution process.

Step 3: Examine systems for stakeholders, resources, supports, and witnesses

All participants should be given opportunities to identify individuals, groups, communities, organizations, and others impacted by the dispute or that may be able to provide support for the dispute resolution.

Plans for inviting these systems typically come from the participants who know them best. It is not necessary for everyone to meet together at the same time, and it may not be safe or practical to attempt that. However, time and space will have to be made to ensure the inclusion of invited parties that decide to participate along with the initial parties involved in the complaint.

The organization that is either hosting the process (who may also be a party in the complaint) is responsible for maintaining a relationship with

established, respected, and well-trained facilitators who have a deep cultural awareness of the core parties involved and who are respected for their expertise and skills in conflict resolution. They should not be people or organizations with needs or concerns relevant to the dispute.

Organizations may arrange with each other, each creating their own trained resolution facilitation groups that respond to conflicts at other organizations, effectively trading this service. Outside or consultant facilitators may also be needed to ensure cultural knowledge and necessary areas of knowledge for conflicts at hand.

Step 4: Tend to power dynamics

It is not possible to avoid power imbalances; however, we can make meaningful efforts to reduce the impact of discrepancies. This can include techniques such as ensuring that only individuals can speak while all others must listen and that speaking turns are given to all (perhaps in multiple rounds) before anyone may have additional time to speak. In addition, facilitators should collect power dynamic concerns from all parties involved to determine the necessary steps to create as much balance as possible and understand identified risks.

Step 5: Collect statements of needs within themed groups

Facilitators should determine a process and approximate timeline during which they will meet with all initial and invited participants to hear their statements of experiences, needs, fears, goals, and concerns. This may occur through asking a pre-determined set of questions to groups arranged by theme, combined with the necessary balancing of power and risk reduction. For example, multiple staff members with similar concerns may meet with facilitators to share their experiences, while administrators may meet with facilitators separately.

Facilitators may then arrange follow-up meetings to allow groups to hear from each other around points of agreement. As those in dispute begin to gain a deeper mutual understanding and appreciation, they may also hear from each other around points of disagreement or conflict.

The facilitator team often develops this process in a reiterative process of planning, experience, and further planning. This process is often tied to emotional healing and witnessing each other; ample time and support must be available for participants to express their feelings and how they have been impacted.

Facilitators should be ready to summarize themes from each group and to pursue messages groups wish to carry forward to each other or larger communities. Spiritual or other cultural elements may be important to include and should be tended to by facilitators.

Step 6: Facilitated resolution

After the process of experience-sharing circles is complete, the process moves on to the collaborative development of resolutions. At this point, groups may no longer feel adversarial and may be interested in collaborating.

It may be necessary to move between steps 5 and 6 as points of contention are revealed. Facilitators should be prepared to transition to a mediation process if contention is too strong for a collaborative resolution process, even after step 5 has been repeated.

The parties involved may collaboratively write their agreement points in their own words to ensure understanding and to make the resolution/s relevant and connected to all involved. Spiritual or other cultural elements may be important to include and should be tended to by facilitators.

Step 7: Full circle

As part of step 6, participants may include steps for returning to their contexts and informing invited participants and larger communities that the conflict has been resolved and how all should move forward. For example, two staff who were in conflict may return to their colleagues and make a joint announcement at a meeting that they better understand each other and are taking certain steps to support each other better.

They may then ask their colleagues to recognize and support their new collegiality with each other by changing how they think and speak about both members who were in conflict.

This may not always be practical, and privacy concerns should be considered. If the conflict was public or private would also need consideration.

Step 8: Evaluation and check-in

During step 6, participants should determine a time period and method for returning to conversation to check in on their resolutions, community/witness engagement with step 7, and to tend to any new concerns that may have developed over time. A series of check-ins may be most appropriate, or a single casual check-in may be chosen.

Further Considerations

- Supports for the impacted staff should be considered, such as providing access to trauma-informed therapy and reintroduction planning to the workplace or particular spaces associated with the incident.
- Temporary working arrangements if separation is needed
- Interim safety planning
- All parties should be informed that they are able to make a complaint through an outside body such as the Ontario Human Rights Commission.
- Support for the individual who may have caused harm, such as reintegration planning
- Training for leaders in GNSC to support alternative processes
- The choice should be given as to which process members would like to use as a restorative justice process is not always suitable in all situations or for all members.
- Refer to Policy Review Recommendations document for best practices in creating and maintaining new policies when revamping the Grievance policy and alternative approaches.
- Accountability Measures for all parties
- Clear timelines of when a grievance will be responded to and resolved
- Regularly update parties on the progress of the process and answer/address any concerns.

Conclusion

Overall, there is no one size fit all in a restorative process. To restore in a workplace context is meant to bring targets of harm back to a place, professionally, socially etc., to where they would have been before the harm had occurred. Offering creative support such as mentorship, professional training etc., to help with this restoration process. Trauma-informed supports for individuals can also be a crucial step in supporting restoration.

What constitutes justice will vary from individual to individual, which is why consultation and providing individuals with an opportunity to share their idea of justice for their situation is important and attempting to find common ground where possible.

Restorative processes must remain flexible, and although RDI has included some possible steps that can be taken, it is crucial that it is used only as a guideline and or starting point for the GNSC to build on.

Community members and or board members should be involved in finalizing both the grievance and restorative processes to create buy-in and dedication to both processes. Forming working groups that include representatives from the board, community, volunteers, and staff is crucial to the successful implementation of future policies.

Suggested Resources:

Beaucage, J. (2018). Anishnabe N'oon Da Gaaziiwin: An indigenous peacemaking-mediation nexus. *Fourth World Journal*, 16(2), 49-55. (<https://adrchambers.com/news-articles/uncategorized/anishnabe-noon-da-gaaziiwin-an-indigenous-peacemaking-mediation-nexus/>)

Restorative Justice: Principals and Practice
<https://restorativejustice.org/resources/restorative-justice-handbook/>