

Just Briefs

A Briefing Paper from the Youth Justice Trust

Tackling School Exclusions Through Mediation: changing 'risk' to 'protective' factors

Introduction

There has been much current discussion about tackling risk factors that are associated with youth crime. The Youth Justice Trust has recently completed an evaluation of a Mediation service operating in schools in a city in the north of England. In the course of the evaluation, it became clear that mediation has the potential to transform the risk factors which typically correlate with official exclusions from school to protective factors.

Preventing exclusions from school is important to the prevention of youth crime. A feeling on the part of children and young people that they have failed at school is the single most prevalent risk factor associated with youth crime. This feeling of having failed increases the likelihood of school children being arrested in connection with a criminal offence by 90%.¹

Exclusions from school raise other issues of concern to youth justice practice, including a disproportionate use of exclusions by school and by race. Some 40% of schools across England and Wales do not use exclusions, whilst for children and young people of black minority ethnic background the disproportionate use of exclusion varies from between 2 to 16 times higher by comparison with the general school population.²

What is mediation?

Mediation is described by Mediation UK as 'a well-established process for resolving disagreements in which an impartial third party helps people in dispute to find a mutually acceptable resolution'.

¹ See the CtC report for the YJB "Risk and Protective factors associated with Youth Crime" of 2002.

² From "Schools Out? Truancy and exclusions, a guide for donors and philanthropists by New Philanthropy Capital (NPC) September 2005

The Mediation Service makes an initial assessment of a disagreement and offers all parties (including parents) the opportunity to be heard and to communicate directly with each other in a mediated meeting.

What children and young people say about exclusions from school

There is a growing literature documenting the experience of children and young people who have been excluded from schools across England and Wales. Emerging themes are:

- *Complex Lifestyles* - children and young people often have complex lives which they see as ordinary rather than extraordinary. Complex lives include disruption of schooling due to family break-up; disruption due to domestic violence; instabilities because of poverty; travelling lifestyle; refugee status; being required to provide primary care to family members or having their own health care needs
- *Pressure at school* - the key theme is how to keep pace with missed work, or trying to catch up and understand work if their attention has been elsewhere. There is a prevailing sense that there is little flexibility within schools for a child to miss work and still 'fit-in'
- *Fitting-in* - where children experience bullying; racism; a lack of friends; an inability to orientate themselves around a school and its systems; where they have not developed the skills required or perceive challenges such as catching-up with schoolwork as being too great, then drift or rebellion results. In the eyes of young people the things that don't help with such situations are inflexibility and penalties which exacerbate the situation
- *Not being listened to* - more than half of all experiences on record from excluded children are that they felt they had not been listened to. Often this relates to a specific teacher, with the children being clear that in their case they were not wanted at school by that teacher
- *Not having a stake in qualifications* - in all studies there is overwhelming evidence that children and young people value education and value qualifications. This situation leads to mixed feelings for pupils placed in a pupil referral unit for instance, where a more tailored approach to their education is possible, but where they are keenly aware that they don't fit in to the mainstream education system.
- *Not having good relationships* - when asked what best promotes good behaviour in others '*pupils perceived the greatest impact upon their fellow pupils behaviour to be the amount of quality time teaching staff spent getting to know and value pupils as individuals*³

³ From a survey of schoolchildren by NASUWT and quoted in "School's Out" by NPC 2005.

Overall, things that appear to work well for children are systems or processes which explicitly say there is space for dialogue; that situations have not been pre-judged and that there is space for people to be heard and understandings to be reached.

Such systems or processes are backed-up by research. Satisfaction rates cited in evaluations of restorative processes (including mediation) in schools run in excess of 90%. Where agreements are reached by the use of dialogue for the resolution of disputes, those agreements held (over a three-month follow-up period) in 96% of cases.⁴

The experiences of black children and young people

These are similar in some respects and substantively different in other respects from those of the general school population. For young black people who have been excluded, the experiences they recount fall into 4 broad themes:

1. Poor relationships with teachers. This includes negative behaviours from teachers including being "*shouted at, inappropriate tone of voice, aggression and 'bad attitude'*"⁵ as well as not being listened to and not being treated respectfully
2. Children and young people describe how they become aware that they have been 'labelled' in a process which hasn't involved them, and with labels which are not complimentary. Such labels are inaccurate and result from a teacher pre-judging a situation or originate from an incident some time in the past
3. Incidents which had arisen between themselves and other pupils which could be termed bullying or racial harassment. In all instances where this had arisen, the children described being on the receiving end of bullying or harassment. The children had complained to a teacher or the school and on finding that nothing happened, decided to deal with the situation themselves. They were then found to be the person at fault.
4. Not being believed. The school version of why a permanent exclusion had gone ahead is disputed in the majority of cases⁶

The Joseph Rowntree Organisation comments on the disparity between the growing body of research which exists to record differential outcomes by ethnic origin and the lack of models of practice which show how the situation can be tackled. Young people and their families become quite stoical about this. For instance:

*I think getting picked on in school is like getting prepared for the outside world*⁷

⁴ From "Restorative Justice in Schools" YJB 2004

⁵ From research for Manchester City Council's LEA Ethnicity and Exclusions Action Plan January 2003.

⁶ See for instance accounts related to researchers for the Joseph Rowntree Foundation referenced below where in 57% of cases the 'story' was disputed in total. Similar findings appear in "A Fair Hearing?" which were school exclusions researched for Save the Children UK

⁷ From "The way it is" Prince's Trust. 2002. P.24

Transforming risk factors into protective factors

From the experiences of children, young people and teachers, a list of commonly occurring risk factors which associate with exclusions from school can be assembled. How these factors can be transformed by a process such as mediation is illustrated in the tables below:

Dynamic risk factors which can be influenced by a mediation process	Benefits of mediation and how the risk factors might be switched to protective factors
Experience of loss, abuse, grief without support	92% of children and teenagers will have experience of significant loss or grief before the age of 16. The preparatory work for mediation and the process itself provides a useful opportunity to know if an event is a symptom of life circumstances which require other responses
Transition period from primary to secondary schooling	The opportunity to see if individual pupils have understood the culture changes in moving from small to big schools in relation to their own behaviours and how they fit in, with an ability to do something about it from the outset
Bullying	Current responses to bullying (as with racism) can result in the person offended against still suffering from the perpetrator(s) but in a more secretive way (eg bullying after school). A focus on the behaviour itself and why it is unacceptable means solutions can be appropriate, specific to the behaviour and can be monitored
Staff overloaded	Builds in time to take stock of a behaviour or incident without having to respond on the spot
Inconsistent or opaque boundaries	The focus of dialogue can be very specific about behaviours, why they are not acceptable and how this relates to rules or codes of conduct which are entirely explicit. This provides safeguards to all parties and a useful framework for teachers and schools to test out the relevance of rules
School is so large the pupil is anonymous, or the pupil is alienated from the benefits of school	Dialogue as a process provides the opportunity for the pupil and their circumstances to be the focus and for the benefits of school for them to be directly addressed as part of a negotiated solution

Dynamic risk factors which are inherent in the exclusion of black children and young people	Benefits of mediation, and how risk factors might be switched to protective factors
Poor relationships between pupil and teacher including negative behaviours from the teacher to the pupil, and the teacher 'not listening' to the young person	Mediated dialogue provides time for a teacher to review an incident or behaviour, rather than a need to respond to events on the spot. For mediation to take place, active listening on both sides is required and there is a neutral, third party to assist the process of talking and listening
Being labelled, often for behaviours which they felt were not theirs, with no opportunity to challenge the label	Incidents and behaviours are the focus in mediation and events which are an aggregate of history, or where a person (pupil or teacher) has been pre-judged and labelled, perceptions and understandings can be challenged constructively
Situations of bullying or racial harassment which go unchecked by teachers until the young person decides to do something about it themselves	Having the opportunity to review and jointly understand behaviours provides not only a way forward relating to the incident in question, but provides a powerful process for challenging bullying and racial harassment in practice. This can be behaviours which were not 'known' or a means of directly tackling behaviours which are known to be racist
Not being believed, and not having the opportunity for 'their side' of events to be heard	Mediation is a process of communication where each side of an event or incident is heard. Quite often the 'solution' or outcome is delivered by the process of communicating itself, i.e. where the same event was understood differently, negotiating a way forward can respect difference but focus on outlining boundaries which are understood for all parties

On paper, the process of mediation can be described, but in practice the experience which is most tangible for those involved is growth. This is growth in:

- Understanding of events and incidents and what may have caused them
- Understanding of each other
- Quality of communication and relationship
- Growth in the options which can be created as the most appropriate response to the situation

Conclusion

If the benefits of mediation are seen as applicable to a school culture, the question of how and where the service fits with daily school activity needs thinking through and agreeing beforehand. Suggestions from teachers are that this is at the point at which the school might ordinarily be considering a first fixed-term exclusion. At this stage, the incident or event is referred for mediation. Teachers see the benefits of such a system as:

- A good opportunity to look after relationships with parents. There are specific advantages to the service being independent in this regard, in that parents are able to see that the school is being fair
- Everything is transparent and events, incidents, behaviours and boundaries can all be clarified. Teachers can work out with pupils and parents exactly what it is about behaviours that they have a problem with and why
- If caught at the right time things can be 'nipped in the bud'. The right time was thought to be early rather than later

The benefits of a known system for parents are:

- It provides an opportunity to be heard as well as hear all sides to an incident or event
- To be able to put together answers which both address the situation and which are the best way forward for their child
- To understand more, and feel that they are talking more directly with a teacher about the experiences that their child is having at school (rather than drawing on their own previous experiences of education which are likely to be outdated and potentially misleading)

Buy-in or ownership from the head teacher and senior management team is a pre-requisite and is best achieved by demonstration of the process. Communication is usually easier to experience than to describe, and teachers appreciate case studies or role-play where real life teacher and pupil relationships are re-enacted in mediated form.

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