

CHARITY COMMISSION
DECISION OF THE CHARITY COMMISSIONERS
FOR ENGLAND AND WALES MADE ON THE 15th JANUARY 2003

APPLICATION FOR REGISTRATION OF
RESTORATIVE JUSTICE CONSORTIUM LIMITED

1. *The issue before the Commissioners*

The Commissioners considered an application by a not for profit company limited by guarantee called the Restorative Justice Consortium Limited (“RJC”) for registration as a charity. If the company was established as a charity it should be entered on the Central Register of Charities under section 3(2) of the Charities Act 1993.

The Commissioners have made this decision in a final review under the Commission’s review procedures.

2. *Determination*

The Commissioners:

- Having considered the case which has been put to them by RJC; including legal submissions and full supporting evidence, and
- Having considered and reviewed the relevant law and the governing document and activities of RJC and the social environment in which it operates,

Concluded that RJC is established for exclusively charitable purposes and may be registered as a charity with the following objects:

To promote restorative justice for the public benefit as a means of resolving conflict and promoting reconciliation by

- i) Promoting the use of restorative justice in the criminal justice system, in schools, in the workplace and elsewhere in the community in situations where conflict may arise*
- ii) Developing and promoting agreed standards and principles for evaluating and guiding restorative practice*
- iii) Advancing education and research on restorative justice and the publication of the useful results of that research*

Restorative justice is a process whereby

- i) All the parties with a stake in a particular conflict or offence come together to resolve collectively how to deal with its aftermath and its implications for the future, and*

- ii) *Offenders have the opportunity to acknowledge the impact of what they have done and to make reparation, and victims have the opportunity to have their harm or loss acknowledged and amends made.*

3. The objects and activities of RJC

3.1 The objects originally proposed by RJC in their application were:

1. *To promote the use of restorative justice in schools, the workplace, the community, prisons, the criminal justice system and any other situation in which conflict arises.*
2. *To disseminate information about, and act as a resource for, restorative justice*
3. *To develop and promote agreed standards and principles for evaluating and guiding restorative practice*
4. *To encourage and undertake research on restorative justice*
5. *To carry out any functions necessary to promote the above objects in appropriate ways, including for example publications, seminars and conferences.*

3.2 The Commissioners had not previously accepted that the promotion of restorative justice was a charitable purpose in its own right. They also considered that the concept of restorative justice was a term that was yet to have a settled definition.

3.3 The Commissioners also noted that the purpose, if charitable, would be a purpose under the fourth head of charity (“for the benefit of the public”) and as such public benefit needed to be established if this was not clearly apparent. Some of the means of promoting the objects were expressed within the objects clause, however, it was not evident on the face of it that the consequences would necessarily benefit the public in a way that is charitable. Accordingly, it was open to the Commissioners to look at its actual and proposed activities to determine what its purpose is and whether it is established for the public benefit¹.

3.4 The Commissioners noted that RJC described its activities² as:

3.4.1 The provision of a range of written materials and the organisation of conferences, seminars and group work promoting restorative justice to a wide variety of public audiences. Promoting restorative justice through the media, providing media packs and working with other organisations to promote restorative justice.

3.4.2 Acting as a resource for other charitable and voluntary organisations and other bodies and acting as a conduit for passing information to the public on restorative justice.

¹ Southwood v AG (CA) unreported [2000] June 28 Chadwick LJ; Slade J in McGovern v AG [1982] Ch 321 p333G-334B; LJ Sachs Council of Law Reporting v A.G. [1972] Ch 73 p91

² APP 1

- 3.4.3 Developing “Standards in Restorative Justice³” and promoting these as a means of ensuring the proper training of mediators and facilitators and promoting good practice generally.
- 3.4.4 Collating and promoting research into aspects of restorative justice and its efficacy.

4. The purposes of RJC

- 4.1 The Commissioners considered all the material before the Commission in the course of the original application and in the review process, including the material submitted in support of the final review in order to determine whether RJC’s activities could be said to further a purpose and, if so, what that purpose might be.
- 4.2 The Commissioners concluded that the purpose of RJC is to promote restorative justice in the areas referred to in the objects clause.

5. Whether the Promotion of Restorative Justice for the Benefit of the Public is a Charitable Purpose

- 5.1 The Commissioners noted that restorative justice is a widely used, accepted and developing concept that complements traditional systems of criminal justice and has been applied in a wide range of situations from victim-offender programmes in England and Wales to the South African Truth and Reconciliation Commission and the Guatemalan Truth Commission.
- 5.2 One of the difficulties when considering restorative justice is that the expression appears capable of different meanings depending on the context in which it is being considered, particularly the forum in which it is being used.
- 5.3 Essentially, as understood by the Commissioners, it is a process that involves offenders and victims (or other parties with a stake in a particular conflict or offence) meeting to discuss the effect of a crime or other anti social behaviour on themselves and the wider community. It seeks to ensure that the punishment for an offence or behaviour is accountable and responsive to the wider community, to make offenders understand the consequences of their behaviour and to give victims a voice in the process. It is not restricted to the criminal justice system and criminal offences and is applied in a wide range of settings where there is a conflict.
- 5.4 The Commissioners considered whether the purpose of promoting restorative justice was charitable by way of analogy with accepted purposes and for the benefit of the public, following their own policy statement on the acceptance of new charitable purposes⁴.

³ A paper produced by RJC setting out safeguards, principles and good practice.

⁴ RR1A Recognising New Charitable Purposes

5.5 The Commissioners considered that the process of restorative justice was a means by which offending behaviour could be addressed. There was evidence of the efficacy of this as a means of promoting public order and preventing further breaches of the peace⁵. Consideration was also given to the role that restorative justice currently plays in the criminal justice system⁶ and government proposals to extend this more widely⁷. This is a means of dealing with offending behaviour including that of offences against the person and against property. Restorative justice is being used in the criminal justice system as a means of delivering more effective administration of the criminal law. It enables victims and the wider community to have a role in sentencing and the administration of the criminal law. It provides support for victims, as well as assisting the rehabilitation of offenders.

5.6 The Commissioners concluded that the promotion of restorative justice for the public benefit is analogous to the charitable purposes of the preservation of public order and the prevention of breaches of the peace⁸, the protection of life and property⁹ and the promotion of the sound administration of the law¹⁰.

5.7 The Commissioners concluded that it was clear that such purposes were for the benefit of the public without the need to consider further evidence on this aspect.

6. Conclusion

6.1 On this basis the Commissioners concluded that the purposes of RJC were charitable and it could be accepted for registration with the following objects:

To promote restorative justice for the public benefit as a means of resolving conflict and promoting reconciliation by

- iv) Promoting the use of restorative justice in the criminal justice system, in schools, in the workplace and elsewhere in the community in situations where conflict may arise*
- v) Developing and promoting agreed standards and principles for evaluating and guiding restorative practice*
- vi) Advancing education and research on restorative justice and the publication of the useful results of that research*

6.2 The Commissioners concluded further from the evidence that restorative justice could be defined as follows:

Restorative justice is a process whereby

⁵ *Proceed with caution: An evaluation of the Thames Valley Police initiative in restorative cautioning* by Hoyle, Young & Hill

⁶ Restorative justice is already used as part of police final warnings and court referral orders. The Youth Justice Board has set Youth Offending Teams targets for ensuring the use of restorative justice.

⁷ Criminal Justice White Paper "Justice for All" published in 2002

⁸ *IRC v City of Glasgow Police Athletic Association* [1953] AC 380

⁹ *Thomas v Howell* [1874] LR 18 Eq 198

¹⁰ *Incorporated Council of Law Reporting for England and Wales v A-G* [1971] Ch 626

- iii) *All the parties with a stake in a particular conflict or offence come together to resolve collectively how to deal with its aftermath and its implications for the future, and*
- iv) *Offenders have the opportunity to acknowledge the impact of what they have done and to make reparation, and victims have the opportunity to have their harm or loss acknowledged and amends made*

The Commissioners therefore concluded that subject to the changes to the objects, RJC was established for exclusively charitable purposes and should be entered on the Register of Charities pursuant to Section 3 of the Charities Act 1993.