

Probation Journal

'So, you're words weren't twisted were they?': Formulations in a restorative justice meeting

Journal:	<i>Probation Journal</i>
Manuscript ID	PRB-24-0031.R1
Manuscript Type:	Full Length Article
Keywords:	Restorative justice, Victim-offender meetings, Formulations, Probation officers, Rehabilitation
Abstract:	Formulations, one type of talk about talk, arise in restorative justice meetings just as they do in other discursive domains. They represent explicit references to things said previously and can perform several functions. Our study of formulations in a restorative meeting between probation staff and an offender identified five such functions: communicating active listening; promoting affiliative talk, changing the offender's way of thinking, praising the offender, and emphasising professionalism in criminal justice. The first four of these are more tightly or loosely aligned with models of restorative justice and rehabilitation, but the emphasis on professionalism in criminal justice is not.

SCHOLARONE™
Manuscripts

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

**‘So, your words weren’t twisted were they?’:
Formulations in a restorative justice meeting**

Introduction

448¹ Brian ...I lived in fear from people attacking me (.)
 449 so I used (.) I did genuinely walk about with
 450 weapons on me because I was more scared for my
 451 own safety (.) and I know I shouldn't really be
 452 doing it...
 ...
 463 Esther Okay. r r And so on a daily basis and you've
 464 Brian LmM
 465 F5² Esther you've talked about (.) yeah (.) kind of looking
 466 over your shoulder...

The foregoing exchange, 15 minutes into a restorative justice meeting between an offender and the victim (who was his case manager), included what conversation analysts call a 'formulation' – a type of talk about talk. Brian³, the offender, had described feeling scared for his own safety; Esther, the facilitator, explicitly referred to what he had said: 'you've talked about...kind of, looking over your shoulder'. Formulations:

'may treat some part of the conversation as an occasion to describe that conversation, to explain it, or characterize it, or explicate, or translate, or summarize, or furnish the gist of it' (Garfinkel and Sacks, 1970: 350).

Phrases such as 'what I'm hearing you say', 'you've talked about', and 'like I said' are just some of the linguistic indicators which usually announce that a formulation is on the way. They reach back to preceding segments of talk and present them again, but rarely as exact

¹ The numbers indicate the lines in the transcript of the meeting.

² Formulations in the conversation are numbered by sequential order F1, F2, etc.

³ To preserve confidentiality, pseudonyms have been used for the meeting's participants.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

repetition, and in so doing they may emphasise things said previously, highlight matters of importance, and/or introduce subtle changes of meaning. As explicit claims about what has been said, formulations not only signal that the formulator has been listening, they can also perform functions in the presentation of self or others, the portrayal of the incident at issue, and the decision about what is to be done. Studying them can reveal something about the nature of restorative justice and the agendas of its participants as it is talked into being in meetings between offenders and victims. While talk has not been a frequent topic of study in relation to restorative justice meetings (Reference omitted for double-anonymised peer review), formulations have not been examined at all.

In this article, we explore the formulations that emerged during the meeting between Brian and his case managers, which Esther (also a probation officer) facilitated.⁴ We begin by reviewing previous work on formulations and identifying our own approach to their definition and analysis. We follow this with a brief description of the meeting, the participants attending, the originating incident, and the main content of each phase of talk, all of which will provide sufficient context for presenting and analysing the formulations that participants put forward. As ‘headlines’ about the content of the conversation, we identify and illustrate five functions that the formulations performed: communicating active listening, promoting affiliative talk, changing the offender’s way of thinking, praising the offender and emphasising professionalism in criminal justice. We also comment on the alignment of each function with models of restorative justice and the agendas of the participants.

Formulations

The type of formulation used in our analysis is only one of the types recognised by conversation analysts, described by Garfinkel and Sacks (1970: 351) as ‘saying-in-so-many-

⁴ For reasons of space, we focus on a single meeting to provide sufficient conversational context for the formulations we analyse.

words-what-we-are-doing'. Heritage and Watson (1979: 126) adopted a narrower approach, focusing on 'formulations which characterize states of affairs already described or negotiated (in whole or in part) in the preceding talk'. They proposed that these formulations either provide the gist of something said previously or provide the basis for its upshot in terms of things that will happen in the future. They also posited that formulations are paraphrases which:

'Preserve relevant features of a prior utterance or utterances while also recasting them. They thus manifest three central properties: preservation, deletion and transformation' (Heritage and Watson, 1979: 129).

Preservation refers to the conservation of prior text in the formulation, deletion to the omission of content from the prior text, and transformation to a change in meaning. These processes work to provide a selective representation and possible re-framing of the previous conversation.

The operational definition of formulation, although rarely provided, appears varied. Van der Houwen and Sliedrecht (2016) distinguished between definitions of formulations which focus on their linguistic form and those which focus on their functions. An example of the first type of formulation is the 'so-prefaced formulation' studied by Beach and Dixon (2001), where 'so' indicates that an upshot from the immediately preceding conversation is about to be introduced. An example of the second is seen in van der Houwen's (2009) analysis of the court show *Judge Judy* where formulations are identified as contributions to the conversation which draw partly on things previously said but which may also explicitly add things. They fulfil several functions, such as checking on the claims made by the litigants or formulating a judgment for the case.

Our operational definition of formulations is, like Beach and Dixon's (2001), based on linguistic form but narrower than theirs. Within their general definition of formulations,

Garfinkel and Sacks (1970: 351, emphasis added) identified a type described as ‘saying-in-so-many-words...*what we are talking about*’. We focus on the way in which this type manifests itself through the explicit reference by one participant in the conversation to something ostensibly said earlier, either by another participant or by the same participant (a case of ‘self-formulation’). While ‘so’ might be part of the preface to a formulation, it is the explicit mention of someone’s talk (e.g., ‘you talked about’, ‘OK, so you’re saying’, ‘everybody’s heard what you’ve said’) that prefates the formulations we are interested in and which is followed by a statement, rarely a repetition, of something said previously (e.g., ‘OK, so you’re saying that you still feel angry’). In contrast to other conceptualizations focused on linguistic form (e.g., Antaki, 2008), these formulations do not necessarily refer to the immediately preceding segment of talk but can reach back to things said earlier in the conversation. They are particularly interesting for the transformations in meaning that they often entail which, although constrained by the anchor in words previously spoken⁵, can introduce often subtle and occasionally more major changes to what was actually said. When accepted by other participants, these changes in meaning help to shape the narrative that is being constructed in the conversation; when denied, they lead to additional work to establish what was said before and therefore what is being said now. Although formulations are obviously not the primary means of constructing a narrative (see, Antaki, 2008), they work to enrol participants as explicit supporters of a particular narrative line.

Irrespective of their definition, work on formulations has studied them in institutional contexts and identified their functions in relation to institutional objectives. For example, Gafaranga and Britten (2004) found that in doctor-patient consultations there were

⁵ The link between a formulation and the previous talk that it purports to describe can be tight and obvious, for example, when the formulation clearly refers to something said immediately beforehand. However, the link may be looser and/or more tenuous when the formulation refers to things said a while ago in the conversation; and, in a few cases, there may be no identifiable segment of talk which provides the anchor for the formulation.

‘formulating summaries’ which refer to things previously said and ‘action formulations’ which focused on things to be done. Somewhat similarly, Franco and Nielsen (2018: 742) studied a business strategy meeting at a university and identified ‘formulations that encourage reflection; formulations that facilitate action; and collaboratively-produced formulations’. Antaki (2008) found that therapists use formulations to help transform their clients’ accounts into a version which is amenable to therapy (see also, Peräkylä, 2019), while Stokoe and Sikveland (2019) examined formulations in mediation meetings as an immediate prelude to asking about possible solutions to the dispute. Our study of the functions of formulations in the institutional context of a restorative justice meeting⁶ parallels these previous studies, in this case with a particular focus on probation officers’ agendas.

Description of the meeting

The meeting took place in a prison where the offender was serving his sentence and was attended by a facilitator (Esther)⁷, a co-facilitator (Leanne), the offender (Brian), the victim (Simon, a probation officer), and the victim’s manager (Claire). Brian did not have a support person present and found himself surrounded by criminal justice personnel. The format of the meeting followed a scripted framework with Esther leading the questions put to Brian, Simon and Claire. The script outlined the overall structure of the meeting: after introductions and a review of the ground rules, the proceedings fell into three broad phases. Brian was questioned first about what he was doing, thinking and feeling at the time of the offence; then Simon was asked a similar set of questions and Claire was asked to add her

⁶ Adapting from Sliedrecht et al. (2016), restorative justice meetings can be characterized as institutional in that (1) turns are pre-allocated, consisting mainly of question-answer sequences, particularly during the offender and victim accounts, and (2) at least one of the participants is a representative of a restorative justice programme, and (3) the participants make their institutional roles (offender, victim, facilitator) relevant while they are talking.

⁷ Esther had been trained as a restorative justice facilitator. As a probation officer she had no prior involvement in the management of Brian’s case.

1
2
3
4 comments; finally, Esther led a discussion involving all the participants and centring on the
5
6 question of what could be done in the future.
7

8
9 The offence occurred when Brian was coming to the end of a previous custodial
10
11 sentence. Simon was his case manager. Brian was told by another case worker that they had
12
13 been unable to find him somewhere to live when he was released from prison. Brian
14
15 described feeling angry, fearful, and let down by the services that should have helped him
16
17 find accommodation when he left prison, resulting in him threatening to kill Simon. As a
18
19 result, he was convicted and sentenced to a new term in prison. When Simon was made aware
20
21 of this information, he described feeling confused by what had happened because meetings
22
23 with Brian had been positive. Claire put this incident in the context of probation officers’
24
25 aims and working environment, explaining why Brian’s threat would weigh heavily on
26
27 Simon’s mind. In the final part of the meeting, Brian apologised to Simon and acknowledged
28
29 the impact of his threat. Simon expressed appreciation for the understanding Brian had shown
30
31 about the distress and harm he had caused and encouraged him to set, and keep to, some
32
33 worthwhile objectives.
34
35
36
37
38

39 **Method**

40
41 With the participants’ consent, Esther recorded the meeting with equipment provided by the
42
43 research team, who did not attend. A full transcript of the meeting was prepared from the
44
45 audio recording by a specialised company and checked for accuracy by the first author. There
46
47 were only six places in the recording where the conversation was inaudible, involving what
48
49 appeared to be one or two words. For the purposes of this study, a formulation was defined as
50
51 an explicit reference to something said previously followed by a description of what was said.
52
53 An explicit reference is usually expressed using the verbs ‘saying’ (e.g., ‘you’ve said yourself
54
55 that’), ‘talking’ (e.g., ‘you’ve talked about’), ‘hearing’ (e.g., ‘I’ve heard what he said’), or
56
57 ‘listening’ (e.g., ‘for me, listening to you’). It may also be expressed as a repetition of
58
59
60

something said immediately before the formulation and introduced with ‘so’ rather than a verb (e.g., first speaker ‘I didn’t know what was happening’, second speaker ‘So, you didn’t know what was happening’), or by a request for a participant to repeat something (e.g., ‘could you repeat that?’). Each author read the transcript and identified the segments of conversation that would fit the definition of formulation. The team subsequently compared the results of the analysis and resolved any differences by agreeing to include or exclude specific segments of text. Following this process, 19 segments of conversation were identified as formulations. Sixteen of these were prefaced by phrases referring to saying/talking or hearing/listening; two were prefaced by ‘so’; and one by a question from Simon asking Esther what she had said (‘Mm, sorry, what was the question again?’ [line 1176]).

The formulations represented about 400 words spoken during a total of approximately 11,000 in the meeting (i.e., less than 4% of the talk). However, we should not necessarily expect many formulations in meetings like these, because formulations are talk about prior talk and so there may be a practical or operational limit to how many formulations a conversation like this could sustain. Weiste (2016) reported 71 formulations during 16 hours of recorded occupational therapy sessions, which van der Houwen and Sliedrecht (2016) considered to be the most frequent occurrence so far reported. Our finding of 19 formulations in a meeting lasting 55 minutes suggests a higher frequency, but our operational definition is not the same as Weiste’s.⁸

Of the 19 formulations identified, five emerged during Brian’s narrative, three during Simon’s narrative and eleven during the subsequent discussion. All but one of the formulations during the narratives by Brian and Simon were introduced by Esther, the other by Claire. However, during the discussion Simon introduced four formulations, Brian and

⁸ Weiste (2016: 61) defined a formulation as ‘an utterance that displays understanding of the previous speaker’s turn by proposing an altered version of it. The formulation makes relevant the client’s confirming or disconfirming response’.

1
2
3
4 Esther each introduced three and Leanne introduced one. This pattern of authorship reflected
5
6 the differences between the first two stages of the meeting in which Esther worked to
7
8 establish a suitable - for her - restorative justice narrative from Brian and Simon, mainly by
9
10 asking them questions and introducing occasional formulations of what they were saying, and
11
12 the final stage which involved an exploration of reactions to what had been said previously
13
14 and of what should happen in the future. Here, all participants were occasionally drawn to
15
16 formulate previous talk as part of their reflections and prescriptions.
17
18
19

20
21 **Results**
22

23 *Communicating active listening*
24

25
26 Whereas the formulations during the accounts given by Brian and Simon were
27
28 prefaced most frequently through references to things being said (e.g., ‘you talked about
29
30 feeling frightened’), five formulations during the discussion were prefaced by reference to
31
32 things that were heard (e.g., ‘I’ve heard what he said’ [line 933]). Thus, there was some
33
34 movement from framing the formulation as a selective replaying of previous talk to including
35
36 the formulator as part of the accumulated understanding of what was said by having heard it,
37
38 with the implication that in these latter cases the previous talk was assimilated and
39
40 subjectively understood. At the beginning of the meeting Esther mentioned that one objective
41
42 was to ensure that ‘both of you [Brian and Simon] have a voice in this’ (46-47) and asked
43
44 participants not to interrupt each other (95-105). This implied that listening to each other was
45
46 important, although Esther did not say it. It was Brian who, when asked what he knew about
47
48 restorative justice, said ‘It’s like to put your point across and hear their point, like’ (73-74),
49
50 which Esther acknowledged (‘Yeah’, 75). Thus, later, during the discussion phase of the
51
52 meeting the prefaces to formulations based on hearing or listening could be taken as evidence
53
54
55
56
57
58
59
60

of the active participation of the formulator in assimilating and processing what had been said.⁹

Promoting affiliative talk

Conversation analysts have distinguished between affiliative and disaffiliative actions in talk, including formulations (Antaki, 2012). Talk is affiliative if it claims to demonstrate agreement between the participants in a conversation and does not disrupt its progress; it is disaffiliative if one of the participants disagrees with something that has been said and therefore disrupts the talk's progress. Affiliative formulations would be those where the formulator's utterance is not challenged by the participant whose words are being formulated or by someone else who is involved in the conversation. They would be manifested either through explicit agreement (e.g., 'uh-huh', 'yeah') from the participant or someone else, or through no response at all. Disaffiliative formulations would be those where the formulator's utterance is challenged by the participant or someone else, leading to further talk to establish an agreed version of what was said – a type of repair work to keep the conversation progressing.

Of the 19 formulations in this meeting, only one was challenged: F3, which we will review in detail later. Of the others, three were self-referential formulations in which the speaker summarised one or more of their own previous utterances, which none of the other participants questioned. Seven were followed by explicit words of agreement ('yes' or 'Mm') and the rest were not followed by any utterances alluding to them, thereby implying agreement. Thus, the overwhelming function of the formulations and responses to them was

⁹ There were also three potential prefaces to formulations during the discussion which used the verb 'hear' (e.g., 'Now that I've heard it properly', 996-997), but which were not accompanied by a formulation of previous talk. Nevertheless, they reinforced the idea that participants were actively listening to others in the meeting.

to establish agreement between the participants and add to the meeting’s accumulating store of shared understandings.

Changing the offender’s way of thinking

In F1, during Brian’s account of events, Esther made apparently subtle changes to his portrayal of the situation leading up to his alleged threat to kill Simon:

181	Brian	Basically (.) I was sc::ared of going out and being
182		homeless (.) I just didn’t want to go out and be
183		homeless (.) especially with it being wintertime
184		(.) and not far off from Christmas ɾ ɿ (0.2)
185	Esther	L•Mm•J
186	Brian	(.) u::hh (0.2) it’s just (.) my head (.) I was
187		playing games with my own head really (.) and I was
188		saying (.) I was taking a lot of drugs at the time
189		(.) a lot of jail illicit drugs basically (.) and
190		my head weren’t in the right frame of mind (.) I
191		weren’t getting no help off the mental health (.) I
192		weren’t getting no help off the drug tea:ms (.) and
193		I just felt like (.) I just felt like I was just
194		left there to just basically rot
195	Esther	(.) °Okay° ((Coughs))
196	Brian	(.) So basically my anger (.) it’s like my anger
197		built up over time (.) and when I said it (.) I
198		genuinely didn’t (.) didn’t mean it (.) for a while
199		I did (.) it was fixated in my head (.) I was
200		thinking why has he done this to me and all that
201		type of thing
202	Esther	(0.2) so did Simon become the focal point (.) so
203 F1		I’m (.) what I’m hearing you say is that (.) you
204		felt that (.)the services generally weren’t

205 supporting you=
 206 Brian =No definitely not (.) no=
 207 Esther =That you were frightened of going out ʃ ʔ you
 208 Brian LmM=
 209 felt let down ʃ ʔ but that somehow got directed
 210 Brian Lyeah=
 211 Esther towards Simon ʃ ʔ is that right?=
 212 Brian Lyeah=
 213 =yeah

These exchanges came early in Brian's account of what had happened. After describing his situation just prior to the incident, Esther started to ask a question about Simon becoming the focal point for his frustration (202), but she suspended that question to formulate several things that she had heard from Brian. First, she changed 'getting no help off the drug teams' (192) to 'the services generally weren't supporting you' (204-205). This was a subtle change in wording which began to transform Brian from a passive subject to an active agent who impliedly was (or should have been) working to address his problems with the support of others. This arguably parallels a difference in institutional approaches to victims, who are often described as seeking or needing help (e.g., McCart, Smith, and Sawyer, 2010; Walker et al., 2020) and offenders, for whom the engagement with interventions and treatment programmes is often considered to be a prerequisite for success (e.g., Ward and Maruna, 2007; Willis and Ward, 2013). Whereas at this point in the meeting Brian was describing himself in terms congruent with that of a victim, Esther shifted him to a position which required his engagement with services as he addressed his problems rather than simply waiting for help. Brian's statements about his situation, leading up to 'I was just left there to just basically rot' (193-194), were downgraded by Esther to softer statements about his feelings ('you felt that the services generally weren't supporting you' [204-205]; 'you felt let

down’ [207-209]). Her formulation’s depiction of Brian’s experience as a feeling rather than a reality further undercut his perceived victim status. Significantly, this shift also implied that Brian was responsible for his actions and behaviour (Stinson and Clark, 2017), something which was extended to the offence that had been committed. Furthermore, by transforming Brian’s claim that he was ‘left there to just basically rot’ into ‘you felt let down’, Esther changed the narrative from a description of the actions of others and the situation they constructed to a description of his own feelings, once again conveying a perspective in which he was expected to work towards his own improvement with the support of case workers. As can be seen in Brian’s responses (206, 210, 212-213), he agreed with Esther’s formulation.

Reframing Brian as an active agent was a continued theme in the meeting. In F4, Esther again changed Brian’s focus on help to one of support:

368 Brian I feel like I’m (.) I’m asking for help and I feel
369 like I'm not getting it
...
378 F4 Esther Um hum (.) Okay (.) so you're saying you still feel
379 angry r 7but nonetheless you're getting some
380 Brian LmM
381 Esther support?=
382 Brian Yeah not (.) none of the anger’s towards Simon no
383 more (.) at first it was (.) uh (.) come over that
384 the anger’s more that feeling like I’ve been let
385 down

By the discussion phase of the meeting, Brian moved ever closer to self-presentation as an agent seeking to shape his own future:

1012 Brian I'll get out [of prison] and I actually do really
1013 (.) really want to go into rehab

Shortly after this Esther added F10, with another reference to support:

1028 F10 Esther ...and (.) everybody's heard what you've said that
 1029 you are asking for support that when you come
 1030 out (.) you feel that the best chance you have (.)
 1031 is if you've got support...

A little later, she asked a question to underline her view of offenders as active individuals:

1089 Esther Who's responsible do you think
 1090 [for rehabilitation?]
 1091 Brian [You're responsible]for your own actions
 1092 Esther Okay=

Brian's response, which Esther acknowledged as appropriate, broadened the scope from rehabilitation to 'actions' and led him to reflect more generally on fault and blame:

1093 Brian =I (.) I understand that now (.) I used to (.) I
 1094 used to always blame other people for my own
 1095 actions (.) oh it's your fault that that happened
 1096 (.) it's your fault and never (.) never directed
 1097 at myself but I do see it's my own fault...

Simon noticed this in F14 and used it to move on to the idea of Brian's responsibility:

1187 F14 Simon I mean (.) like I said (.) you know (.) there's a
 1188 lot that you've already said Brian and I like the
 1189 bit about what you said about in terms of
 1190 blaming people [] so it's an easy thing (.) to
 1191 Brian [Mm]
 1192 Simon do isn't it [] you know we're very good at
 1193 Brian [Mm]
 1194 blaming others [] you see the thing is once
 1195 Brian [Yeah]
 1196 Simon you say it's m:e (.) and it's my own actions
 1197 (.) you also have to (.) you then (.) in a strange
 1198 kind of way duty bound to take responsibility

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

1199 for that as well...

Although Brian did not explore the idea of responsibility, he did agree that it is too easy to blame someone else (F16):

1231 Brian And (.) I shouldn't really blaming people for
1232 F16 my own actions (0.5) you know because it's too easy
1233 to blame someone else (.) as you just said.

Praising the offender

During the discussion phase of the meeting four formulations contributed by Simon sought to portray Brian in a morally positive light. The strongest explicitly described him as a ‘good man’:

1208 F15 Simon r ɹ and as I was saying you know (.) you are (.)
1209 Brian LYeahJ
1210 Simon are (.) you are a good man (.) you can do it

In this self-referential formulation, Simon was referring to his earlier comment:

1140 Simon I mean I think Brian's been quite (.) quite honest
1141 and I'm really happy Brian r ɹ because
1142 Brian LYeahJ
1143 Simon you're (.) you're a good man=
1144 Brian =Mm (0.2) thank you

The repetition of words – ‘you’re a good man’ (1143), ‘you are a good man’ (1210) - clearly aimed to emphasise the positive description of Brian’s character in a meeting that was focused on the morally serious event of his threat to kill Simon.

In other examples, F11 was accompanied by a positive comment on Brian’s reflection about the harm he had caused: Simon was ‘really happy about, I’m happy about the fact that you could see the distress and the hurt that you caused’ (1150-1153); and in F14 Simon said ‘I like the bit about what you said in terms of blaming people’. In the final formulation of the

meeting (F19), Esther drew on previous comments from Simon to highlight some positive behaviour in Brian:

1315 F19 Esther ...I think Simon has said
 1316 some valuable things that (.) you know (.) you
 1317 have it within you you'd (.) you'd had those five
 1318 da:ys that (.) you ma:de the decision not to drink
 1319 and you stuck to it ((coughs)) so you have got it
 1320 there within you

Emphasising professionalism in criminal justice

During Brian's account of events, Esther asked him about his talk of obtaining a tent and a machete:

295 Esther In that same meeting you also (.) mentioned getting
 296 a tent and a machete ¶did ʔn't you?
 297 Brian ¶Yeah¶
 298 Esther So (.) what was going on there? =

With this second question, Esther was initiating a 'perspective display series' (Maynard, 1989)¹⁰ and inviting Brian to provide the context of his comments.

299 Brian =Basically that was to say (.) cos (.) it was just
 300 at that time when that guy was found dead in
 301 [location] (.) homeless (.) a rough sleeper (.) so
 302 I said the machete for my own protection (.) but
 303 that word was twisted around (.) and I know it
 304 might sound a bit mad saying I'll (.) I'll
 305 kill someone then saying that in the same sentence=
 306 Esther =Mm huh
 307 Brian (.) but I said it as (.) as (.) um (.) basically

¹⁰ The perspective display device is often used by professionals to elicit the person's understanding of their circumstances, typically followed by the professional's interpretation, which incorporates elements of the person's description, but which amplifies and corrects elements of it (Maynard, 1989).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

308 saying ahh I’m getting a machete for my own
309 protection and I said that in the police interview
310 (.) and I said that al:l the way (.) until (.)
311 until I got to court and (.) like everything got
312 twisted around:d (.) my words (.) all my words was
313 (.) like (.) twisted (.) and it made me (.) like
314 (.) out to be like I’m some (.) some animal

Esther then concluded the series by adding her own perspective on what had happened:

315 Esther .hhh Was it that they were twisted or was it just
316 that people heard what you said and (.) and came to
317 a conclusion?=
318 Brian =Probably yeah (.) most probably was yeah=
319 F3Esther =So your words weren't twisted (.) were they=

This was the only formulation during the meeting which involved an immediate repetition of something just said, presumably to emphasise it. It was also the only formulation that involved a challenge to something said a little earlier¹¹. Brian’s claim that his words were ‘twisted’ (303, 313) imputed negative motives and behaviour to the criminal justice personnel who heard what he said, investigated the case and took it to court. Esther clearly wished to remove that imputation and repeated her alternative perspective on what had happened:

320 Brian =Mm=
321 Esther =they (.) they used exactly the same words=
322 Brian =Mm=
323 Esther =but maybe their perception was=
324 Brian =Mm=
325 Esther was different than how you'd intended it?

However, although Brian had earlier tentatively agreed with Esther’s perspective (‘probably yeah’ [318]), he resumed his case for misrepresentation by those who dealt with the incident:

¹¹ On challenging formulations, see Sliedricht et al., (2016).

- 1
2
3
4 326 Brian =Mm (.) well (.) it weren't put across that I said
5
6 327 (.) for my own protection (.) that was not put on
7
8 328 r the (.) the₇ thingy (.) one of them did say it
9
10 329 Esther L.hhh I think₁
11
12 330 Brian (.) he said he's saying for his own protection=
13
14 331 Esther =Mm huh=
15
16 332 Brian =but that was one of the workers in the workshop
17
18 333 where the incident=
19
20 334 Esther =Yeah=
21
22 335 Brian =happened=

23 In response, Esther restated her own interpretation, which was finally accepted by Brian:

- 24
25 336 Esther =But at that the time you said it=
26
27 337 Brian =Mm huh=
28
29 338 Esther =you didn't say it was for your own protection (.)
30
31 339 it was said=
32
33 340 Brian =Mm=
34
35 341 Esther =after you'd made=
36
37 342 Brian =Yeah=
38
39 343 Esther =the threats to kill Simon (.) you then said=
40
41 344 Brian =Yeah=
42
43 345 Esther =I'll get a tent and a machete=
44
45 346 Brian =Yeah=
46
47 347 Esther =so (.) again (.) if you put those together=
48
49 348 Brian =Yeah (.) it don't sound good=
50
51 349 Esther =No=

52 Brian acknowledged the force of Esther's reasoning, completing her sentence, 'Yeah, it don't
53 sound good' (348).

54
55 Other parts of the meeting also communicated a positive or professional role for
56
57 criminal justice personnel. Thus, in F1 Esther's change of wording from 'help' to 'support'
58
59
60

recast Brian as the expected active party in his rehabilitation, with case managers being there to support him. (As we saw, she also referred to ‘support’ in F10.) Additionally, she changed his claim of being ‘just left there to just basically rot’ to a feeling (‘you felt let down’) rather than acknowledging its reality. Here and throughout the meeting, she offered no reflections or comments on the possibility that there were failings in the case management system.

In F11, during the discussion, Simon arguably sought to convey a professional stance to his work through his choice of vocabulary to re-express things which had been said much earlier by Brian:

1149 F11 Simon so for me (.) listening to yo:u (.) was (.) was (.)
1150 you know (.) I’m really happy about (.) I’m happy
1151 about the fact that you could see [] the distress
1152 Brian [Mm]
1153 Simon and the hurt that you caused (.) you know...

Here, he was reaching back to something that Brian had said quite early in his account of what happened:

409 Esther Okay(.) Okay (.) And how do you think Simon was
410 affected b[ry]
411 Brian [o]h I think he probably did (.)
412 genuinely probably scared him because (0.5) in a
413 sense though (0.2) it probably would scare someone
414 if someone’s saying they’re gonna kill ya and if
415 (.) if they’re known for violence and stuff

Simon’s formulation changed ‘scared’ to ‘distress and hurt’, and in his own account he had described the incident as ‘very hurtful’ (656). Perhaps he wanted to emphasise his professional stance: distress and hurt are still emotions but much softer ones than fear. He could also build on Brian’s acknowledgement that he was a professional:

998 Brian now I'm thinking (.) because he said that (.) I

999 think of it myself you know I've been through
 1000 it myself and it's not a nice way to think
 1001 especially if you're a professional...

Interestingly, a potential counter-current to the framing of criminal justice personnel as professionals came at the end of the meeting when Esther asked Leanne, the co-facilitator (who had been silent throughout), whether she had anything to say:

1267 Esther Anybody else Leanne any (.) comments (.)
 1268 observations any (.) questions?=
 1269 Leanne =Just to thank Brian and Simon for (.) you know (.)
 1270 for (.) it takes courage ɹ to get togethɹ er
 1271 Brian ɹyeah yeah yeahɹ
 1272 doesn't it (.) it really does=
 1273 Esther =°it does°=
 1274 F18 Leanne =and all I've heard (.) heard here now (0.2) from
 1275 Esther's sort of colleagues (.) is just a
 1276 genuineness of (.) let's just clear the air (.) you
 1277 know (.) and so thank you so much and thank you
 1278 Simon for letting me be here=
 1279 Esther =°Yeah yeah°=
 1280 Brian =I feel (.) I feel better in myself that it has
 1281 cleared the air a little bit (.) it was (.) it's
 1282 not playing games with my head no more ɹ ɹ now
 1283 Esther ɹnoɹ
 1284 Brian I've heard it

In fact, neither Simon nor Claire had said anything during the meeting about 'clearing the air', a phrase which might have implied that both sides (Brian and Simon) had contributed to the incident, thereby putting the case manager in a slightly more negative light. Esther's 'yeah, yeah' (1279) might have acknowledged both Leanne's formulation and her thanks to Brian and Simon, but she did not choose to challenge it, perhaps because she had already

announced (2055-2056) that they were reaching the end of the meeting. However, Brian took up the same metaphor of ‘clearing the air’ (1281), indicating his lingering sense that the incident had been one in which he had been misunderstood.

Discussion

The five functions of formulations that we have identified fall into two types. The first two relate to interactional processes at work in the meeting, communicating active listening and affiliative talk. Active listening is cited as a key characteristic of restorative justice meetings (Bolitho, 2009; Braithwaite, 2010), without which empathy, meaningful construction of new understandings about the originating incident, and any agreements about what is to be done, would not be possible. While affiliative talk is not explicitly mentioned as a desirable characteristic of restorative justice meetings and disaffiliative talk can, as we have seen, play a role in challenging participants’ previous understandings, affiliative interactions establish particular understandings more or less firmly among the participants. They could be seen as a form of “justice restoration through consensus and the reaffirmation of values” (Wenzel et al., 2010, 911).

The third, fourth and fifth types of formulation relate to representational work within the meeting. Changing the offender’s way of thinking, from portraying himself as a passive victim to his acknowledgement of responsibility, not only for the originating incident but also for designing his future, aligns with models of restorative justice which place importance on the offender’s acceptance of responsibility for the crime (Crocker, 2016; Moran, 2017; United Nations Office on Drugs and Crime, 2020). For its part, scholars and advocates have noted that praise for offenders – but obviously not for the offences - can be important in motivating them to engage with restorative justice meetings and commit to a positive resolution (Ahmed et al., 2001; Morrison, 2006; Zernova, 2007). However, the formulations which portrayed the victim and other criminal justice personnel as professionals is a novel

finding, not for the obvious reason that most victims do not work in criminal justice but because previous research on ‘restoring victims’ has focused on addressing the harm they have suffered (e.g., Beven et al., 2005; Wemmers et al., 2023) not their identity. In relation to harm, victims may work to emphasise their identity as a victim (Kenney and Clairmont, 2009), but any concern with their incident-relevant identity other than that of victim - as a parent, professional, spouse/partner, etc. - has not been documented previously as a feature of restorative discourse. Interestingly, the discursive stances of the probation officers who participated in the meeting reflected the significance of professionalism that Mawby and Worrall (2013) identified as the strategy for finding meaning in probation work (see, also, Tidmarsh, 2022). While this particular function may have been influenced by the professional identities of the participants (probation officers), it would be interesting to see how other occupations (e.g., nurses, doctors, police officers and social workers) manage their identities in restorative justice meetings.

More broadly, formulations did ‘double duty’ (Heritage and Watson, 1979: 52), establishing mutual understanding between participants while shaping offenders’ and victims’ talk into a version appropriate for the institutional framework of restorative justice. In that sense, they were used as a device to control the meeting and tracing their use indicates one interactional manifestation of a broader phenomenon that Drew (1992: 505) called ‘the power of summary’. The meeting’s only openly disaffiliative formulation (F3) was to challenge Brian’s claim that his words had been ‘twisted’. Also, there were disaffiliative elements in F1 that refused to accept what Esther saw as Brian’s exaggerated characterization that he was ‘left there to just basically rot’. Nevertheless, Esther was careful not to open the offender account phase in confrontational terms. The scripted move in this phase of exploring the offender’s thoughts and feelings prior to the commission of the offence figures as part of the restorative justice process of decoupling offence and offender. The disaffiliative elements

1
2
3
4 of F1 and especially F3 encouraged him to take full responsibility for the act of threatening to
5
6 kill Simon. At the same time, the more affiliative tone of F2 ('you talked about feeling
7
8 frightened, so there's fear, there's anger') and F4 ('you're getting some support') positioned
9
10 Brian as person with reasonable responses to circumstances who was taking constructive
11
12 steps to address his problems. Here we see the beginning of the depiction of Brian as a good
13
14 person who has committed a bad act.
15
16

17
18 An emphasis on what the restorative justice literature calls 'responsibilisation' (Gray,
19
20 2005)—encouraging the offender to take full responsibility for the offence and its
21
22 consequences—seems to be a leading motif of the first five formulations. By contrast, the
23
24 long, unchallenged, almost soliloquy-like features of the victim's account, allowed his
25
26 innocence to be exhibited and articulated. Simon reported that he was simply going about his
27
28 business, just doing 'a job that I had to do' (686), when news of the death threat arrived.
29
30 Simon's detailed elaboration of the impact of the news upon him and the harm caused was
31
32 interrupted only by a single formulation (F6) from Esther: 'You've got that information, that
33
34 fear is immediate, what happens at home?' (627-628). Esther's affiliative formulation ratified
35
36 without amendment Simon's account of his thoughts and feelings and encouraged Simon to
37
38 further develop his narrative. In comparison with the persuasive work of the offender account
39
40 phase, there was less moral ground for the victim to cover (cf. Reference omitted for double-
41
42 anonymised peer review).
43
44
45
46
47

48 As we have seen, in the discussion phase of the meeting, there was a more even
49
50 distribution of formulations (four from Simon, three each from Brian and Esther and one
51
52 from Leanne) as participants endeavoured to establish what they had learned. Here the
53
54 formulations were wholly affiliative in character and underlined a broad level of
55
56 intersubjective agreement about how the incident could now be understood and how the
57
58 offender and victim might go on in the world beyond the meeting's close. Brian
59
60

acknowledged ‘there’s consequences to everything’ (F9), that ‘it’s too easy to blame someone else’ (F16) and claimed empathy (F17) with the fear Simon felt. Simon was happy that Brian can now ‘see the distress and hurt that you caused’ (F11) and affirmed that Brian is ‘a good man, you can do it’ (F15).

Conclusion

Although a small part of the talk in the meeting that we analysed, formulations represented explicit comments on what was being said and served important functions. They were offered as confirmations of previous statements by one of the participants which were clearly seen as significant by the formulators. Nevertheless, they did not always repeat those statements word for word and sometimes introduced changes in wording which might have passed muster in a dictionary of synonyms (e.g., from ‘help’ to ‘support’) but which represented subtle changes in perspective. That subtlety presumably contributed to the acceptance of these formulations by others.

The functions that we identified for the formulations in this meeting largely aligned with objectives typically ascribed to restorative justice, suggesting that they offer an additional resource for evaluating the conduct of such meetings. However, we also discovered a function relating to the identity of the victim and more broadly criminal justice personnel which is not addressed in models of restorative justice, and this encourages further research on what is being sought in these meetings. There is the obvious need to study additional transcripts of victim-offender meetings to assess the frequency and role of formulations and the extent to which our initial findings can be generalised. This will add to the small amount of existing research on restorative justice as a phenomenon that is talked into being.

These findings will help restorative justice practitioners and those who design meetings to consider how formulations can make subtle changes to the meeting’s narrative.

Additionally, they can encourage awareness of the extent to which victims advance or defend their statuses other than that of the victim (e.g., their occupational status) within restorative justice meetings.

Funding

The collection of the data used in this article was supported by [details omitted for double-anonymised peer review].

Acknowledgements

We are most grateful to ‘Esther’, the RJ facilitator who very willingly and successfully included the recording of this meeting in her RJ work.

References

Ahmed E, Harris NE., Braithwaite J and Braithwaite V. (2001) *Shame Management through Reintegration*. Cambridge: Cambridge University Press.

Antaki C (2008) Formulations in Psychotherapy. In: Peräkylä A, Antaki C, Vehviläinen S and Leudar I (eds) *Conversation Analysis and Psychotherapy*, Cambridge University Press, pp. 26-42.

Antaki C (2012) Affiliative and disaffiliative candidate understandings. *Discourse Studies*, 14(5): 531–547.

Beach WA and Dixson C N (2001) Revealing moments: Formulating understandings of adverse experiences in a health appraisal interview. *Social Science & Medicine* 52(1): 25-44.

Beven JP, Hall G, Froyland I, Steels B and Goulding D (2005) Restoration or renovation? Evaluating restorative justice outcomes. *Psychiatry, Psychology and Law* 12(1): 194-206.

Bolitho JJ. (2009) Restorative justice: The ideals and realities of conferencing for young people. *Critical Criminology* 20: 61-78.

Braithwaite J (2010) The Fundamentals of Restorative Justice. In: Dinnen S (eds) *A Kind of Mending: Restorative Justice in the Pacific Islands*. Australian National University E Press, pp. 35-44.

Crocker D (2016) Balancing justice goals: Restorative justice practitioners' views. *Contemporary Justice Review* 19(4): 462-478.

Drew P (1992) Contested Evidence in Courtroom Cross-Examination: The Case of a Trial for Rape. In: Drew P and Heritage J (eds) *Talk at Work: Interaction in Institutional Settings*. Cambridge University Press, pp. 470-520.

Franco LA and Nielsen MF (2018) Examining group facilitation in situ: The use of formulations in facilitation practice. *Group Decision and Negotiation* 27(5): 735-756.

Gafaranga J and Britten N (2004) Formulation in general practice consultations. *Text & Talk* 24(2): 147-170.

Garfinkel H and Sacks H (1970) On Formal Structures of Practical Actions. In: McKinney JC and Tiryakian EA (eds) *Theoretical Sociology: Perspectives and Developments*. Appleton-Century Crofts, pp. 337-367.

Gray P (2005) The politics of risk and young offenders' experiences of social exclusion and restorative justice. *British Journal of Criminology* 45(6): 938-957.

Heritage J and Watson R (1979) Formulations as Conversational Objects. In: Psathas G (eds) *Everyday Language: Studies in Ethnomethodology*. Irvington Press, pp. 123-162.

Kenney J S and Clairmont D (2009) Using the victim role as both sword and shield: The interactional dynamics of restorative justice sessions. *Journal of Contemporary Ethnography* 38(3): 279-307.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

Mawby R and Worrall A (2013) *Doing Probation Work: Identity in a Criminal Justice Occupation*. Abingdon, Oxon.: Routledge.

Maynard DW (1989) Perspective-display sequences in conversation. *Western Journal of Communication* 53(2): 91-113.

McCart MR, Smith DW and Sawyer GK (2010) Help seeking among victims of crime: A review of the empirical literature. *Journal of Traumatic Stress* 23(2): 198–206.

Moran KL (2017) Restorative justice: A look at victim offender mediation programs. *21st Century Social Justice* 4(1): 1-5.

Morrison B (2006) School bullying and restorative justice: Toward a theoretical understanding of the role of respect, -ride, and shame. *Journal of Social Issues* 62(2): 371-392.

Peräkylä A (2019) Conversation analysis and psychotherapy: Identifying transformative sequences. *Research on Language and Social Interaction* 52(3): 257-280.

Stinson JD and Clark MD (2017) *Motivational Interviewing with Offenders: Engagement, Rehabilitation, and Reentry*. The Guilford Press.

Stokoe E and Sikveland RO (2019) The backstage work negotiators do when communicating with persons in crisis. *Journal of Sociolinguistics* 24(2): 185-208.

Tidmarsh, M (2022) Professional legitimacy, identity, and practice: Towards a sociology of professionalism in probation. *British Journal of Criminology* 62: 165-183.

United Nations Office on Drugs and Crime (2020) Handbook on restorative justice programmes. Available at: https://www.unodc.org/documents/justice-and-prison-reform/20-01146_Handbook_on_Restorative_Justice_Programmes.pdf (accessed 14 August 2024).

van der Houwen F (2009) Formulating disputes. *Journal of Pragmatics* 41(10): 2072-2085.

van der Houwen F and Sliedrecht KY (2016) The form and function of formulations: Co-Constructing narratives in institutional settings. *Journal of Pragmatics* 105: 55-58.

Walker A, Lyall K, Silva D, Craigie G, Mayshak R, Costa B, Hyder S and Bentley A (2020) Male victims of female-perpetrated intimate partner violence, help-seeking, and reporting behaviours: A qualitative study. *Psychology of Men & Masculinities* 21(2): 213-223.

Ward T and Maruna S (2007) *Rehabilitation: Beyond the Risk Paradigm*. Routledge.

Weiste E (2016) Formulations in occupational therapy: Managing talk about psychiatric outpatients' emotional states. *Journal of Pragmatics* 105: 59-73.

Wemmers J, Parent I and Quirion ML (2023) Restoring victims' confidence: Victim-centred restorative practices. *International Review of Victimology* 29(3): 466-486.

Wenzel M, Okimoto TG, Feather NT and Platow MJ (2010) Justice through consensus: Shared identity and the preference for a restorative notion of justice. *European Journal of Social Psychology* 40(6): 909-930.

Willis GM and Ward T (2013) The Good Lives Model: Evidence that it Works. In: Craig LA, Dixon L and Gannon TA (eds) *What Works in Offender Rehabilitation: An Evidence Based Approach to Assessment and Treatment*. John Wiley & Sons, pp. 305-318.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

Zernova M (2007) *Restorative Justice: Ideals and Realities*. Routledge.

For Peer Review