

THE YOUTH JUSTICE ACT IN BRIEF

The *Youth Justice Act* relates to the administration of justice and operation of the court system in Tasmania. It applies to young people aged 10 years and over and under 18 years at the time of an alleged offence.

The main features of the *Youth Justice Act* include:

- an increase in the age of criminal responsibility from 7 to 10 years (children under 10 years cannot be charged with committing offences)
- establishment in the Magistrates Court of a new court for young people: the Youth Justice Division
- introduction of procedures to divert young people from the court system
- an increase in the range of sentencing options available for young people
- a focus on the rights of both young persons and victims within the criminal justice system.

The *Act* provides for the young person to express remorse or regret for their action, as a key part of the legal process. It also ensures that the young person:

- is made aware of their rights under the law
- has the offence and any penalties properly explained
- is sent to detention only as a means of 'last resort'
- receives penalties appropriate to their age, maturity and cultural identity
- receives penalties which give them the opportunity to develop a sense of social responsibility.

When a young person admits to committing an offence, the Police may proceed to:

- give a Formal Caution to the young person; or
- refer the matter to a Community Conference; or
- charge the young person, and have the matter taken to Court.

This Brochure describes the Court process. A companion brochure deals with 'diversionary' measures (formal cautioning and community conferencing) under the *Youth Justice Act*.

FURTHER ADVICE & INFORMATION

Assistance can be obtained from the Legal Aid Commission of Tasmania during office hours (9am—5pm weekdays) by ringing:

1 300 366 611

Community Legal Centres:

Hobart Community Legal Service
166 Macquarie Street, Hobart 7000
Ph: 6223 2500

North-West Community Legal Centre
62 Stewart Street, Devonport 7310
Ph: 6424 8720

On the Web

www.lawstuff.org.au — the website for the National Children's & Youth Law Centre: it includes a site for Tasmanian laws and the option of e-mailing questions on the law and your rights.

www.hobartlegal.org.au — the website for Hobart Community Legal Service.

www.courts.tas.gov.au/magistrate — the website for the Magistrates Court of Tasmania, which includes information on going to Court.

If you don't have easy access to the Internet, you can book free time on State Library of Tasmania computers in many sites around Tasmania. Just ring and book.

There are many more provisions in the *Youth Justice Act* than can be reasonably included in this Brochure. Therefore, the information contained in it is a general guide to the law only. It should not be treated as legal advice. You should see a solicitor before admitting to an offence or appearing in court.

This Brochure has been produced by Hobart Community Legal Service, with assistance from the Magistrates Court of Tasmania and the Department of Health & Human Services.

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Understanding the *Youth Justice Act 1997*
(No. 2 of 2 Brochures for Young People)

THE MAGISTRATES COURT (YOUTH JUSTICE DIVISION)

THE ADMINISTRATION OF JUSTICE FOR YOUNG PEOPLE IN TASMANIA



*Hobart Community
Legal Service Inc.
Providing legal direction*

GOING TO COURT

A matter may proceed to Court if:

- it is of a serious nature, or
- you do not admit to committing the offence, or
- a Police Officer elects not to offer a diversionary option (formal caution or community conference), or
- a community conference breaks down (fails to reach a decision, or you fail to attend it), or
- you fail to complete an undertaking entered into at a community conference.

If the matter is to be heard in a court, and you were aged at least 10 years but less than 18 years at the time of the alleged offence, then the matter will be handled in the Youth Division of the Magistrates Court.

If you are 15 years or over, there are some offences that you can choose to have dealt with in either the Youth Court or the Supreme Court. You should seek legal advice before deciding which court you choose.

The Youth Court is run by a Magistrate (referred to in Court as “Your Worship”) and has the following roles:

- hear and make a decision about a charge against you for an offence
- hear and make a decision about an application for a restraint order against you
- hear serious criminal charges to determine whether there is sufficient evidence against you to justify the matter going to the Supreme Court (these are known as “committal proceedings”).

COURT LOCATIONS

In Tasmania, Magistrates Courts are located at:

- Burnie: 38 Alexander Street
- Devonport: 8 Griffith Street
- Hobart: 23-29 Liverpool Street
- Launceston: 73 Charles Street.

The Courts are public buildings, and you can normally sit in on hearings to see how they are conducted. (You will not be permitted to sit in on hearings in the Youth Court, as their proceedings are confidential.)

THE COURT PROCESS

What should I do before going to Court? You should get legal advice from a lawyer. The lawyer will help you to prepare your case, and to decide if you should plead ‘guilty’ or ‘not guilty’. You should not plead guilty if some of the things the Police say about you and the offence are not correct.

Also, you may wish to attend the Magistrates Court before you have to appear, to better understand what happens and to feel a bit more relaxed about being inside the courtroom.

What should I do if I go to Court without a lawyer? If you haven’t had a chance to get legal advice, you may ask the Magistrate for an ‘adjournment’ before you plead guilty or not guilty. If the Magistrate agrees, the matter will be postponed until a later day and time, to give you the chance to see a lawyer. You are entitled to an adjournment on your first appearance.

Who can be present at the Court? Besides you, the Magistrate and various Court officials:

- your solicitor (if you have one)
- your parent/guardian and other family members
- a responsible adult (chosen by you)
- the prosecutor (the person presenting the case against you)
- the victim (if they choose to attend)
- any witnesses required to be present
- Department of Health & Human Services officers
- others whom the Magistrate considers helpful.

The Court proceedings are confidential, unless the Magistrate otherwise gives permission.

What do I do if I can’t attend Court at the proper time? It is important to turn up at Court at the proper time. If you don’t turn up at Court without letting it know, you may be arrested by the Police on a warrant.

What if I’m 18 or over when a matter gets to Court? You’ll be treated as if you are still under 18 except that, if you’re sentenced to detention and you’re at least 19 years when the matter is dealt with by the Court, your period of detention may be served in a prison.

PENALTIES & OUTCOMES

If I’m found guilty of an offence, what options does the Court have? It can do any of the following:

- dismiss the charge (which may carry a reprimand or good behaviour undertaking)
- release you with conditions
- impose a fine
- make an order for probation, community service or detention (which all require a pre-sentence report)
- make an order for suspended detention, restitution of damages caused by you, or compensation
- order you to attend a community conference instead of imposing a sentence.

The court must ensure you understand the meaning of any order and the consequences of not fulfilling it. If it imposes a fine, probation or community service, the court must also consider your age and circumstances, the offence, and any previous sentences or sanctions.

If I’m found guilty, will a conviction be recorded?

Yes, if you’re sentenced to detention (which isn’t suspended). If the sentence is for the payment of a fine, or for probation or community service, then the court can have a conviction recorded. Other sentences will not be recorded.

What if I fail to comply with a Court decision? Like other courts within the Magistrates Court, orders made in the Youth Court are enforceable. Failure to comply could result in a new hearing and an increased penalty.

YOUTH JUSTICE WORKERS

Youth Justice Workers are officers appointed by the Department of Health & Human Services to:

- provide advice to the court about you to assist the Magistrate in making a decision about a charge for an offence
- organise a community conference
- supervise formal Court Orders such as a period of probation or a community service order
- manage your supervised release after a period of detention.