



**Hobart Community
Legal Service Inc.**

ALTERNATIVES TO COURT FOR YOUNG PEOPLE

If you are aged between 10 and 17 years and commit certain crimes, there may be some alternatives to going to court. If Police accuse you of an offence and you admit to doing the offence the Police may give you a caution or request that you participate in a community conference.

You should only admit to committing an offence if you believe it is correct to do so, and you are willing to participate in an alternative to going to court. You always have the right to deny anything that the Police accuse you of doing. You can go to court to explain that you are not guilty of that offence.

However, if you have committed a more serious crime, or have committed a crime before, you may need to go to court.

If the Police offer you an alternative to going to court, they will decide whether you should either receive a formal caution, or attend a community conference. The Police will also:

- explain the detail of the offence to you;
- explain that you are entitled to legal advice and to a court hearing;
- require you to sign a written admission of guilt;
- require you to agree to either the formal caution or community conference.

You should ensure that:

- a parent or other adult you know or choose attends the meeting with the Police;
- get legal advice (if you want it) before you sign an admission to guilt;
- you don't sign anything you don't understand or agree with;
- you know whether you are going to have a formal caution or a community conference.

If the Police offer you a formal caution or a community conference you don't have to accept it. If you don't accept the formal caution or community conference you will need to go to court. It is your choice as to whether you want to go to court.

FORMAL CAUTION

The purpose of the formal caution is to warn you against committing an offence again. A caution will not be recorded on your criminal record, but if you offend again the formal caution will be used as evidence that you have already been warned and this may be taken into consideration for a future offence.

At the caution your parent/guardian or another adult can be there with you. The victim of the crime may also choose to be present. You and any adult with you can make a statement about the matter. The caution will be given by a Police officer. However if you are Aboriginal, or a member of a religious, ethnic or other community group, a representative of that group can be authorised to give the caution in the presence of the Police officer. At the caution it will be decided if should do any of the following:

- Pay the victim compensation for any property damage or injury
- Replace any affected property;
- Perform up to 35 hours of community service;

- Give an apology to the victim;
- Any other action that the Police consider

A written record of the caution will be made and you will be required to sign it.

COMMUNITY CONFERENCE

If the offence is considered too serious for a cautioning, the Police may request that you participate in a community conference. The Community conference is confidential and is run by a facilitator appointed by the Department of Health and Human Services. You can bring to the community conference a parent/guardian and if it is considered helpful any person known to you such as a youth worker or counsellor can attend also. If applicable an aboriginal community representative may be present. The victim and their support may also choose to attend.

The Community Conference aims to encourage you to accept responsibility for your behaviour. If the victim chooses they will be given an opportunity to participate. As with a formal caution, a report of the conference may be used in evidence if you offend in the future. At the community conference it will also be decided whether you will have to do any of the following:

- Pay the victim compensation for any property damage or injury;
- Replace any affected property;
- Perform up to 70 hours of community service;
- Give an apology to the victim;
- Any other action that the Police consider.

The written record of the community conference will be made and you will be required to sign it.

FAQS

Why are these alternatives made available? Alternatives for young people going to court have been developed to provide young people opportunity to express their remorse or regret for their action. They are also developed to ensure penalties are appropriate to age, maturity and cultural identity, and gives young people the opportunity to develop a sense of social responsibility.

What happens if the community conference breaks down? The Community Conference will break down if you fail to attend, or the Police or victim disagree as to whether you should be required to do anything such as pay compensation. The Community Conference will also be seen to have broken down if you don't complete any action you are required to do as determined by the Community Conference. If any of these happen then the issue may go to court.

What if I don't do what is required of me? If you are required to undertake anything as a result of a formal caution or Community Conference and you do not do it within the timeframe you may have to go to court for the original offence.

Notes:

Last updated June 2018.

This factsheet is intended to give general information about the law in Tasmania. While every effort has been made to ensure accuracy at the time of writing, the law is complex and constantly changing. Moreover, legal exactness is not always possible in a publication of this nature. The factsheet should not be used as a substitute for legal advice.

No responsibility is accepted for any loss, damage or injury, financial or otherwise, suffered by any person acting or relying on the information contained in it or omitted from it.

Providing legal direction ● ● ●

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