



Functional Governance Standard Operating Procedure

Diversionsary Conferencing Restorative Justice

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Contact:	Superintendent - Intelligence and Community Safety
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Disclosure and classification

This document is classified UNCLASSIFIED and is intended for internal AFP use. Disclosing any content must comply with Commonwealth law and the AFP National Guideline on information management.

Compliance

This instrument is part of the AFP's professional standards framework. The [AFP Commissioner's Order on Professional Standards \(CO2\)](#) outlines the expectations for appointees to adhere to the requirements of the framework. Inappropriate departures from the provisions of this instrument may constitute a breach of AFP professional standards and be dealt with under Part V of the [Australian Federal Police Act 1979 \(Cth\)](#).

This document is a functional governance instrument as defined under s.4 of the [AFP Commissioner's Order on Governance \(CO1\)](#).

Definitions

AFP appointee	Deputy Commissioner, an AFP employee, special member or special protective service officer and professional staff.
Case officer	AFP appointee in charge of an investigation.

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Introduction

This Standard Operating Procedure provides guidance for AFP appointees for the management of referrals to restorative justice for eligible offenders – juveniles and adults. The restorative justice scheme augments the criminal justice system, without replacing it.

Before you proceed, do you have *prima facie* evidence that the offender has committed the offence? For adult offenders- do they accept responsibility for the commission of the offence? For juvenile offenders- do they deny responsibility for the commission of the offence?

ACT Policing's policy position is to refer all eligible first-time offenders and all juvenile Aboriginal and Torres Strait Islander offenders to restorative justice. Since 25 February 2016, eligible adult offenders can also be referred to restorative justice.



Participation in restorative justice is voluntary – victims and offenders have the right not to participate and may withdraw their consent at any stage of the process. In doing so, they should be made aware that the offence will be cleared by other means, at the case officer's discretion.



If a matter is being referred to restorative justice with Court proceedings, the referral must be made prior to the offence being sworn in at Court. After the offence is sworn in, it is no longer eligible to be referred by ACT Policing to restorative justice.

Purpose of Restorative Justice

The purpose of restorative justice in the ACT is to provide a safe and carefully managed environment in which to:

- provide victims with an opportunity to talk about how the offence has affected them and others close to them
- provide offenders with an opportunity to accept responsibility for their actions
- provide offenders with the opportunity to repair the harm done by the offence
- provide victims, offenders and supports an opportunity to meet to discuss the harm and what may be done to repair it.

When is restorative justice appropriate?

It is available for an offence if all of the following requirements are satisfied in relation to that offence:

- There is an eligible victim or eligible parent
- There is an eligible offender
- There is an eligible offence
- The offence is referred for restorative justice by a referring entity (ACT Policing in this instance)

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- The Director General (Restorative Justice) decides that restorative justice is suitable

Explanation of restorative justice

Before an offence is referred for restorative justice, ACT Policing sworn members should ensure that the eligible offender understands the following:

- the general purpose of restorative justice, in relation to the offence
- the nature of a restorative justice conference
- who can take part
- their right to seek independent legal advice about participation in a restorative justice conference
- there is no obligation to participate in, or complete, a restorative justice process

How to refer

ACT Policing has the discretion to refer any **young** or **adult** offender for a less serious offence (excluding family violence and sexual offences) involving a victim (who has suffered harm) to restorative justice either as a diversion (diversionary conference) or together with court proceedings. Noting that if a matter is being referred together with court proceedings, the RJ referral must be made prior to the matter being sworn in at court, after this the offence is no longer eligible to be referred by ACT Policing.

Is the matter eligible?

1. Be aware of the [Crimes \(Restorative Justice\) Act 2004](#) – Part 2, Section 7 – '*...a referring entity may consider whether it is appropriate to refer the offence for restorative justice before considering other action*'.
2. Complete the apprehension on PROMIS
 - as a diversion, clear by 'diversionary conference'
 - in conjunction with Court, clear by arrest/ summons noting on the Statement of Facts also referred to Restorative Justice and create a duplicate offence clearing it by 'diversionary conference'
3. Complete referral via [SupportLink](#) by selecting the 'Restorative Justice' tab.
4. Advise the offender and the victim that the matter has been referred to the Restorative Justice Unit and that they will be in touch.



Juvenile Aboriginal and Torres Strait Islander referrals

- if the eligible juvenile offender identifies as Aboriginal or Torres Strait Islander, a referral to restorative justice **must** be made in all instances where the young person meets the eligibility criteria
- the only exception to this is if the young person has been cautioned for the offence.

Who to contact for advice

ACT Policing Crime Reduction - Education and Diversion

Address: Belconnen Police Station, Benjamin Way, Belconnen ACT 2617

Post: GPO Box 401, Canberra City ACT 2601

Phone: 02 6245 7400

Email: ACT-Diversion@afp.gov.au

Restorative Justice Unit

Address: Ground Floor, 12 Moore Street, Canberra City, ACT 2601

Post: GPO Box 158, Canberra City, ACT 2601

Phone: 02 6207 3992

Email: restorativejustice@act.gov.au

Website: www.justice.act.gov.au/?/restorative_justice

Legislation

[Crimes \(Restorative Justice\) Act 2004](#)

[Children and Young People Act 2008](#)

Further Advice

Team Member - Community Safety Education and Diversion.

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