

WHAT IS RJ?

An explanation of Restorative Justice in the ACT

Legislation and practice

Restorative justice (RJ) processes provided by the ACT Restorative Justice Unit (RJ Unit) are legislated under The Crimes (Restorative Justice) Act 2004. The underlying principles of the Act are to:

- > Enhance the rights of victims of offences by providing RJ as a way of empowering victims to make decisions about how to repair the harm done by offences.
- > Set up a system of RJ that brings together victims, offenders and supporters in a carefully managed and safe environment.
- > Ensure that the interests of victims of offences are given high priority in the administration of RJ under the Act.
- > Enable access to RJ at all stages of the criminal justice system without substituting or changing its processes.
- > Enable agencies that have a role in the criminal justice system to refer offences for RJ.

How RJ works

RJ is an exchange of information between the people most affected by an offence – the people harmed and the people responsible. It aims to provide:

- > The person/s harmed and those close to them with an opportunity to talk about how an offence has affected them.
- > A chance for the person/s harmed to address any unresolved questions, issues and emotions.
- > The person/s responsible an opportunity to accept responsibility for their actions and to repair the harm caused by the offence.
- > An opportunity, for those close to the person responsible, to talk about how an offence has affected them.
- > All participants with an opportunity to discuss the harm caused by offence in a carefully managed and safe environment.

Information can be exchanged either directly through a face-to-face meeting or indirectly through a series of letters or messages conveyed by a convenor.

What happens in an RJ conference?

RJ is co-ordinated by a person called a convenor. A convenor prepares everyone for RJ and helps everyone to talk to one another. The convenor takes participants through three stages:

- > **What happened?** The offender will be asked to talk about what led up to the offence and what happened during and after the offence. They will also be asked how they think others were affected.
- > **How were people affected?** Starting with the victim, the convenor asks everyone what they thought when the offence happened and how they feel now. The offender will find out how people were hurt by what happened and will probably find out some things about the offence that they didn't know.
- > **How to make things better?** The convenor asks everyone what they think needs to happen to make things better. This may form an agreement between the victim and the offender about what they need to do to repair the harm caused by the offence. Everyone who participates makes sure that the agreement is fair and reasonable.

Who can take part?

The convenor will talk to everyone about who they would like to participate in the process. It usually involves:

- > The victim and people close to them – family and friends
- > The offender and people that care about them
- > Other people who were involved with the offence like the police informant, a teacher or a witness

It is important for victims and offenders to have people supporting them. The experience of crime for a person can result in unresolved questions, issues and needs. Victims need support to enable their recovery and for those close to them to also have a chance to hear and talk about the impact of the offence. The offender's family and others close to them may also have unresolved questions and needs about the offence and the offending behaviour.

Things to know

There are some things people should think about if they are going to do RJ:

- > There is no obligation on any participant to take part in RJ if they don't want to and they can pull out at any time.
- > Victims can ask someone close to them to participate in RJ on their behalf.
- > Participants can talk to a lawyer at any time about doing RJ.
- > Accepting responsibility doesn't stop the offender from going to court and telling the court they are not guilty of the offence.
- > RJ can happen at any time in the criminal justice system: Instead of going to court - As well as going to court - Once the court has passed sentence.
- > If the offender goes to court for sentencing, after they have done RJ, the court may consider whether they have accepted responsibility for the offence but is not required to reduce their sentence as a result. On previous occasions the court has often taken into account the fact that an offender has done RJ.
- > If the offender decides not to take part in RJ or pulls out once the process has started the court must not consider this when sentencing

What is an agreement?

Participants may reach some type of agreement whereby the offender agrees to do some things to repair some or all of that harm caused by the offence which may include one or more of the following:

- > Financial reparation
- > A plan to address offending behaviour
- > A work plan for the benefit of the victim or the community
- > An apology - either verbal or written
- > Anything else that would help repair the harm caused by the offence

Agreements must

- > Be fair and reasonably able to be carried out by the offender
- > Not be unlawful or require the detention of the offender
- > Not be degrading or humiliating to the offender or anyone else
- > Not cause distress to the offender or anyone else

- > Not be for a term longer than 6 months from the date the agreement is made or if a later starting date is stated the later date.
- > Be in writing and signed by the victim and offender.

Agreement tasks

Tasks in agreements usually include things that help repair the harm caused by the offence and to try to stop the offender from getting in trouble again. Examples of things that offenders have done for victims include:

- > Paying money for costs incurred by the victim
- > Paying money to a charity nominated by the victim
- > Doing unpaid work for the victim or community
- > Writing letters of apology or update letters

Examples of things that offenders have done to make sure they don't get in trouble again:

- > Make a promise to increase school attendance
- > Abide by a curfew
- > Get counselling for anger management issues
- > Get counselling for drug and alcohol issues
- > Look for employment or do work experience
- > Agree not to have contact with people they get into trouble with
- > Participate in programs e.g. Police Citizen's Youth Club (PCYC) Programs or defensive driver training
- > Participate in courses e.g. education courses like CIT or TAFE
- > Participate in community activities e.g. join a group or club like a sporting group or drama/ art club

Before signing an agreement

There are some things you should know:

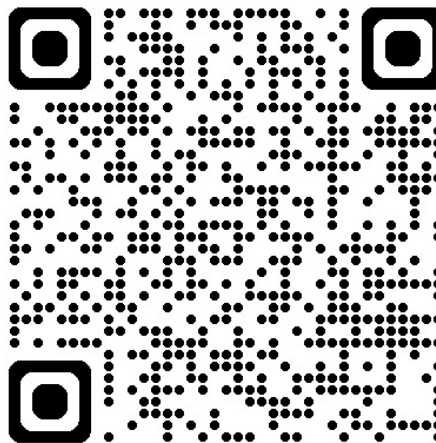
- > Participants can seek legal advice about the effect of the proposed agreement
- > Participants do not have to sign the agreement if they don't want to
- > Participants understand the agreement and what it means
- > Offenders are able to do what is in the agreement
- > Offenders understand and can complete the tasks in the agreement by the due dates

- > Agreements may only be amended if there has been a change in circumstance that does not allow the offender to complete the original agreement. They may only be amended after the convenor has discussed the change with the victim and the offender.
- > The convenor must give a copy of the RJ agreement to the victim, the offender and the agency that referred the offence to RJ i.e. AFP, DPP, courts etc.

Monitoring of RJ agreements

The convenor can do anything reasonable to check whether the offender is doing what they agreed they would do in the RJ agreement. If the convenor is satisfied that the RJ agreement has been completed, they must report that to the agency that referred the offence to RJ. If they are not satisfied that the RJ agreement has been completed, the convenor must report that to the agency that referred the offence to RJ.

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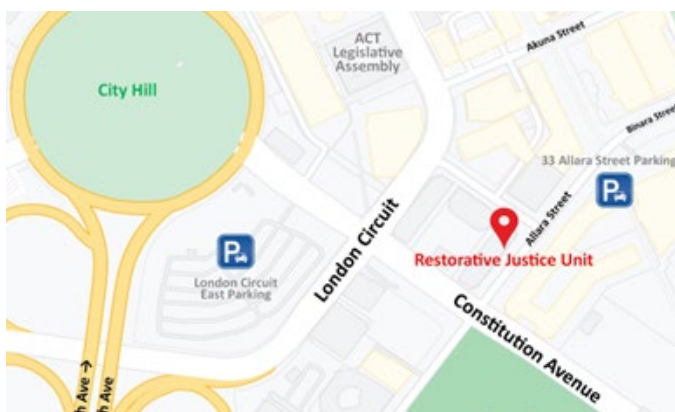
phone: (02) 6207 3992

email: restorativejustice@act.gov.au

location: Allara House, lower ground
48 Allara St Canberra City

post: PO BOX 158 Canberra ACT 2602

web: visit us online to find out more:
www.act.gov.au/law-and-justice/restorative-justice-service



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