

## QUESTION ON NOTICE

No. 662

asked on Wednesday 24 May 2023

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**MR D JANETZKI** ASKED MINISTER FOR EMPLOYMENT AND SMALL BUSINESS, MINISTER FOR TRAINING AND SKILLS DEVELOPMENT AND MINISTER FOR YOUTH JUSTICE (HON D FARMER)

### QUESTION:

With reference to youths referred to restorative justice processes in relation to robbery, unlawful use of a motor vehicle, unlawful entry, and other theft—

Will the Minister advise (a) the tasks, education and/or reparation that are commonly agreed to or available to youths engaged in restorative justice for these offences, (b) whether restorative justice conferencing can only go ahead if the youth agrees, (c) what rights does the victim have during restorative justice conferencing, (d) how does a victim of youth crime request a youth justice conference and (e) what are the reasons a victim would be denied a request for youth justice conferencing?

### ANSWER:

- a) Agreements made as a result of a restorative justice conference must be agreed to by all participants. Components of an agreement may vary depending on what the victims express would be most meaningful to repair the harm caused. The tasks most commonly agreed to by youths engaged in restorative justice for robbery; unlawful use of motor vehicle; unlawful entry; and other theft offences in the twelve-month period leading up to 30 May 2023 were to write an apology letter to victims; engage in educational programs or activities to repair harm in the community; attend counselling sessions (mental health, alcohol or drug misuse for example); or complete rehabilitation offender focused programs such as Changing Habits and Reaching Targets (CHART) or Emotional Regulation Impulse Control (ERIC), or the Re-Thinking Our Attitude to Driving (ROAD).
- b) Restorative justice conferencing can only go ahead if the young person agrees. This is because it is important that the young person is able to take responsibility for their actions and can enter into the process in a way that will not cause further harm to the victim. If a young person communicates their unwillingness to engage with a restorative justice process, a restorative justice convenor will engage the young person and/or their family to identify and address the barriers. If this cannot be achieved, the matters will be returned to the referring authority (Police or court) to be dealt with by an alternative legal outcome. This can include the matters being progressed through court.

- c) A victim who attends a conference participates in the development of a restorative justice agreement, which is directed towards making reparation to the victim for the harm done. Victims are entitled to participate in the restorative justice conference, as are their legal representative; member of their family; or another adult, if requested by the victim. The convenor's role is to ensure the process is safe; fair; just; and culturally appropriate for all participants.
- d) The Police and the Courts are the referring authorities for restorative justice and may do so under various sections of the *Youth Justice Act 1992* (the Act).
- e) The Police and the Courts, as the referring authorities, consider various factors when determining the appropriateness of a restorative justice referral. These factors include the nature of the offence, the harm suffered by anyone as a result of the offence and whether the interests of the community would be served by having the matter dealt with under a restorative justice process. In making this determination, there is also a consideration with regard to the possibility of further harm being caused to the victim and if further harm is considered likely, then it may be determined that the matter is unsuitable for a restorative justice process. In cases where restorative justice is not progressed, an alternative legal outcome will be decided upon by the referring authority, e.g. Police could commence a formal proceeding and send the young person to court; and a court could make a determination under the Youth Justice Act, which could include imposing a sentence order.