



THE LAW SOCIETY
OF NEW SOUTH WALES

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Mr Laurie Glanfield
Director General
Young Offenders Regulation Review
NSW Attorney General's Department
GPO Box 6
SYDNEY NSW 2001

Laurie

Dear Mr Glanfield,

Young Offenders Regulation Review

Thank you for the opportunity to comment on clauses 8 and 9 of the draft *Young Offenders Regulation 2010*. The Law Society's Juvenile Justice Committee (Committee) has reviewed the Regulatory Impact Statement and makes the following comments for your consideration.

Clause 8 – Outcome plans in respect of bush fire or arson offences

Proposed clause 8 remakes, with minor amendment, clause 20 of the *Young Offenders Regulation 2004*. The amendment removes the requirement that the child visit a hospital burns unit or ward. The Committee agrees with the concerns of NSW Health in relation to visits by young offenders to hospital burns units.

The Committee's primary position is that outcome plans should not be subject to restrictions or stipulations for certain offences and should instead be tailored to the particular circumstances of the case.

However, from a practical perspective, Committee Members have found that the existence of specific requirements for outcome plans involving bush fire and arson offences have assisted young people. Legal practitioners can point out that the inclusion of these offences in the Regulation demonstrates that the legislature has specifically considered these offences and determined that they can be dealt with under the *Young Offenders Act 1997* by providing guidance as to how outcome plans should be structured.

For this reason the Committee supports Option 3 - to remake the Regulation with a minor amendment.

Clause 9 – outcome plans in respect of graffiti offences

Proposed clause 9 remakes, without amendment, clause 20A of the *Young Offenders Regulation 2004*.

Again, the Committee's primary position is that outcome plans should not be subject to restrictions or stipulations for certain offences and should instead be tailored to the particular circumstances of the case. However, similarly to bush fire and arson offences, the specific reference to graffiti offences assists in providing guidance to the Court as to the contents of the outcome plan and highlights how a young person can benefit from a youth justice conference.

The Committee suggests that the mandatory requirements in proposed clause 9(2)(a)(i) and (ii) require amendment.

Clause 9(2)(a)(i) should specify that the number of hours cleaning up or performing community work that a young offender can agree to at a youth justice conference should be limited to 20 hours, or at least to an amount less than the hours currently stipulated in the Regulations.

The Committee is of the view that the reference to payment of compensation in proposed clause 9(2)(a)(ii) should be removed. The young people involved in these types of offences are often from economically disadvantaged backgrounds, and are not in any position to pay a monetary recompense. For this reason, payment of compensation is not an appropriate restorative punishment for a young person. The restorative justice underpinnings of the *Young Offenders Act 1997* fit much better with an agreement that the young person agree to clean up the graffiti or do work in the community as part of their outcome plan.

The Committee supports Option 3 - to remake the Regulation with amendments as follows:

- Specify that any component of a youth justice conference outcome plan that requires a young person to clean up graffiti or undertake community work should be limited to a number of hours less than the limits on the number of hours work in community service orders that can be made by the court e.g. 20 hours; and
- Remove the reference to the payment of compensation.

I trust these comments are of assistance.

Yours sincerely,



Michael Tidball
Chief Executive Officer