

Remands to Local Authority Accommodation

Background

The Policy Briefing follows on from Policy Briefing #32 Legal Aid, Sentencing and Punishment of Offenders Bill (July 2011) and Policy Briefing #72 Legal Aid, Sentencing and Punishment of Offenders Act (October 2012).

Changes to the youth remand framework were made following public concern that 17 year olds were being remanded like adults and not on the same principles as younger children. That practice has attracted criticism from the UN Committee on the Rights of the Child. Placement of children in secure accommodation was also seen to be discriminatory and unfair as it was predominantly determined by age and gender. Furthermore, many 15-17 year olds whose alleged offences were not the most serious and whose behaviour did not pose a risk to the public were remanded securely. The new framework is designed to introduce a better approach to youth remand which maintains community-led supervision, support, education and training.

Summary

The youth remand provisions in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 came into force on 3 December 2012. They make significant changes to the remand framework for 10 to 17 year olds in criminal proceedings.

The Act imposes a new scheme for remands of children (other than on bail). All children must now be remanded into local authority accommodation, or (where certain criteria are met) youth detention accommodation. In both situations, the cost of this accommodation must be met by the designated local authority, and the child will attain 'looked-after' status.

The main changes are:

- All children under 18 will be subject to the same remand criteria, compatible with the UN Convention on the Rights of the Child.
- Previously 17-year-olds were effectively treated like adults and were required to be remanded to prison.
- All children not released on bail must now be remanded to local authority accommodation, unless certain specified conditions justify remand to youth detention accommodation.

- **Youth detention accommodation** comprises the following kinds of accommodation:
 - a secure children’s home,
 - a secure training centre,
 - a Young Offender Institution.

- A court can only order a Remand to Youth Detention where certain specified criteria are met:
 - the child has reached the age of 12, and
 - either the child is legally represented before the court or legal representation has been withdrawn/refused, and
 - either the offence is a violent or sexual offence or an offence punishable in the case of an adult with imprisonment of 14 years or more, or
 - the child has a recent history of absconding from remand/committing offences whilst on remand; and
 - it is necessary to protect the public/prevent further offences.

- The Act gives local authorities greater financial responsibility for remands to youth detention accommodation. Youth Offending Teams will therefore have a financial interest in ensuring that they are adequately prepared for the remand hearing. For example Youth Offending Teams should where appropriate assist the court with information relating to: available bail packages; available local authority accommodation; relevant conditions available that may be attached to a remand to local authority accommodation or bail; and which local authority should be designated by the court where a child has been remanded to local authority accommodation or youth detention accommodation.

- **Local authority accommodation** means any accommodation provided by or on behalf of a local authority.

- A court that remands a child to local authority accommodation must designate the local authority that is to receive the child. The responsible local authority will be the authority already looking after a child, or, in the case of a child not previously looked after, the authority in whose area the child habitually resides or the offence/one of the offences was committed.

- The designated local authority must receive the child and provide or arrange for the provision of accommodation for the child whilst the child is remanded to local authority accommodation – thus local authorities will be responsible for covering the custody costs of these young people, providing a financial incentive for councils to keep young offenders out of custody.

- The Local Authority Social Services Act 1970 is amended to bring children who are remanded to local authority accommodation or to youth detention accommodation into the definition of a ‘looked after child’ for the purposes of the Children Act 1989.

- Where a child is remanded to local authority accommodation, it is lawful for any person acting on behalf of the designated authority to detain the child.

- A court remanding a child to local authority accommodation may impose conditions (e.g. to ensure that s/he does not interfere with witnesses, or makes him/herself available for the preparation of court reports.) The designated local authority may apply to the court for such conditions to be imposed.
- The court may impose electronic monitoring to secure compliance with such conditions (provided that: the child has reached the age of 12; and the offence/one of the offences is an imprisonable offence; and either the offence/one of the offences is a violent or sexual offence or an offence punishable in the case of an adult with imprisonment of 14 years or more, or the offence together with any other imprisonable offences of which the child has been convicted in any proceedings amount to a recent history of committing imprisonable offences whilst on bail/remand; and the court is satisfied that suitable provision for electronic monitoring can be made in the relevant area; and a Youth Offending Team has informed the court that, in its opinion, the imposition of an electronic monitoring condition would be suitable in the child's case.)
- A court remanding a child to local authority accommodation may, after consultation with the designated authority, impose on the authority requirements for securing compliance with any such conditions imposed on the child, or requirements stipulating that the child must not be placed with a named person. In the absence of any such requirements, it is for the designated local authority to decide where the child resides.
- A court may, on the application of the designated authority or the child, vary or revoke any such conditions or requirements.
- The child may be arrested without an arrest warrant if there are reasonable grounds for suspecting that the child has broken any such conditions.
- Where a court remands a child to youth detention accommodation, the court must designate a local authority as the designated authority for the child.
- The responsible local authority will be the authority already looking after a child, or, in the case of a child not previously looked after, the authority in whose area the child habitually resides or the offence/one of the offences was committed.
- The Secretary of State must consult the designated authority before giving a direction as to the type of accommodation to which the child is to be remanded.
- The Act provides that Regulations **may** be made whereby the costs of providing youth detention accommodation and escort services may be recovered from the designated local authority by the person(s) providing the accommodation/escort services.
- The Act provides that the Secretary of State **may** make payments to a local authority for the purpose of enabling the authority (a) to carry out their duty to receive and accommodate children remanded to local authority accommodation, and (b) to make payments to others for the cost of providing youth detention accommodation and escort services.
- A child who is remanded to youth detention accommodation is to be treated as a child who is looked after by the designated authority. However, the Act provides that Regulations **may** be made modifying their looked-after status.

- **Escort arrangements** - children remanded to youth detention accommodation will be transported under a new contract held by the Youth Justice Board. Children remanded to local authority accommodation will continue to be transported by the local authority.
- There are similar provisions relating to children in extradition cases.
- **Transitional arrangements for 10-17 year olds already remanded** - a child that has been remanded under the previous remand framework will remain remanded as ordered by the court until the remand comes to an end and the child is released, sentenced or remanded again.
- **Children who turn 18 years of age during their remand** - When considering whether there is a real prospect that a child will be sentenced to a custodial sentence for the offence to which the proceedings relate and the child is likely to turn 18 before conviction, a custodial sentence can include an adult custodial sentence. Where a child turns 18 during the course of their remand they will remain in youth detention accommodation until they are released or returned to court. The YJB will not seek to recover costs from local authorities in respect of a child.

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