

Decision Maker: EXECUTIVE
PRE DECISION SCRUTINY BY CARE SERVICES POLICY
DEVELOPMENT AND SCRUTINY COMMITTEE

Date: 3 September 2013
11th September 2013

Decision Type: Non-Urgent Executive Key

Title: FINANCIAL IMPLICATIONS OF CHANGES TO THE YOUTH REMAND
FRAMEWORK

Contact Officer: Kay Weiss, Assistant Director Safeguarding and Social Care
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Chief Officer: Executive Director of Education, Care & Health Services

Ward: (All Wards);

1. Reason for report

The purpose of this report is to

- Outline changes to the youth remand framework introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Section 3).
- Describe the indicative costs arising from changes to the youth remand framework (Section 5).
- Seek approval to
 - the release of the Ministry of Justice youth remand grant allocation from the Council's central contingency into the Children's Care Service budget
 - the creation of sufficient budgetary provision within the Children's Social Care budget to meet the anticipated volume of remand placements arising from changes to the youth remand framework.

2. **RECOMMENDATION(S)**

2.1 The PDS Committee Members are invited to consider and comment on the report and agree:

- to the drawdown of the Ministry of Justice youth remand grant allocation of £73,734 from the Council's central contingency into the Children's Care Service budget and refer to the Executive for their approval;

- to the drawdown of £500,000 which has been set aside in the Council's central contingency to fund anticipated volume of remand placements and refer to the executive for approval;
- Refer the report to the Care Services Portfolio Holder for approval.

2.2 The Public Protection and Safety PDS are asked to note the contents of the report.

2.3 The Executive is asked to approve the drawdown of the Ministry of Justice youth remand grant allocation of £73,734 and the £500,000 which has been set aside in the Council's central contingency

Corporate Policy

1. Policy Status:
 2. BBB Priority: Children and Young People Safer Bromley
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Financial

1. Cost of proposal: **£594,348**
 2. Ongoing costs:
 3. Budget head/performance centre: Budget Placements - 808101
 4. Total current budget for this head: ££5,403,700
 5. Source of funding: Ministry of Justice Grant and Council Budget
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Staff

1. Number of staff (current and additional): None
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory Requirement: the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012. Sections 91 to 107 and Schedule 12
 2. Call-in: Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 30 young people projected to be held on remand during 2013/14
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

The Context

- 3.1 The Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO), which came into force in December 2012, with full implementation since April 2013, addresses concerns that too many children, whose alleged offences are not serious and whose behaviour does not pose a risk to the public, are remanded in secure custody. In 2010/11, 26% of all young people in custody were on remand however 61% of those on secure remand were acquitted or did not go on to receive a custodial sentence from trial. This indicates that many secure remands of children may be unnecessary. In addition, under the old legislation, 17 year olds were being remanded like adults and not as children. Both practices had attracted public criticism and were not in keeping with the United Nations Convention on the Rights of the Child

Changes to the Youth Remand Framework

- 3.2 The Legal Aid Sentencing and Punishment of Offenders Act 2012, (LASPO), introduced the following changes to the youth remand framework:
- Children and young people remanded in youth detention accommodation are to be designated Looked After Children status for the duration of their remand.
 - They will be eligible for leaving care services if they are aged 16 or 17 years old and remanded beyond 13 weeks.
 - 17 year olds are to be treated as children and subject to the same remand framework as all other children aged 12 – 18 years and may therefore be remanded to local authority accommodation e.g. foster care or supported accommodation.
 - Courts should aim to place children who are on remand in the community with appropriate packages of support if the risk assessment and nature of the alleged offense permits.
 - All costs of remands to Youth Detention Accommodation are transferred to the Local Authority. This is a clear incentive for Local Authorities to reduce unnecessary secure remands to avoid high cost placements.
- 3.3 Local authority “**remand accommodation**” is provided by or on behalf of a local authority. It has a wide definition and can include the homes of relatives, bail hostels and specialist fostering arrangements. All costs of remands to Local Authority Accommodation e.g. foster care, continue to be met by Local Authorities.
- 3.4 “**Youth detention accommodation**” is defined in section 102(2) of the LASPO Act 2012 and currently comprises:
- secure children homes;
 - secure training centres;
 - young offender institutions.
- 3.5 Prior to the introduction, in April 2013, of the changes to the remand framework summarised in section 3, Youth Detention Accommodation placement costs had been shared between the Ministry of Justice and Local Authorities as follows; Young Offender Institution - Ministry of Justice met all costs; Secure Children’s Home and Secure Training Centre - Ministry of Justice met two thirds of cost/LAs met one third of the costs. Local Authorities are now expected to meet all costs of remands to Youth Detention Accommodation.

- 3.6 The Ministry of Justice continues to commission the number of Youth Detention places on behalf of Local Authorities however it has transferred the responsibility for paying for placements to Local Authorities. To support this arrangement the Ministry of Justice has devolved budgets in the form of a non ring-fenced grant allocation. The level of grant allocation has been determined according to their historical share of the total expenditure on Young Offender Institution placements. The funding previously used by the Ministry of Justice to commission Secure Children's Homes and Secure Training Centre placements is not devolving to Local Authorities.
- 3.7 For 2013/14, the Ministry of Justice have confirmed the grant allocation for Bromley as £73,734.
- 3.8 All young people who are now held on remand are designated as Looked After Children and, if they are over 16 and on remand for more than 13 weeks, as Care Leavers. Previously, this only applied to those remanded to Secure Children's Homes, Secure Training Centres and to Local Authority Accommodation. Those who were remanded to Young Offender Institutions (YOI) were not previously deemed eligible. Now those remanded to YOI are designated as Looked After and may also qualify as Care Leavers. A premium is included within the grant allocation to assist Local Authorities to meet the additional costs of incurred through the extension of Looked After Child status to all young people on remand.
- 3.9 The costs for the transportation of young people who are held on remand are met through a top slicing of the grant allocation and is organised on behalf of Local Authorities through a contract commissioned by the Ministry of Justice.

4. FINANCIAL IMPLICATIONS

Background

- 4.1 Local Authorities across England and Wales raised concerns with the Ministry of Justice and the Youth Justice Board about the level of funding being transferred to Local Authorities to pay for the new responsibilities. In Bromley, an estimated £500,000 full year pressure was identified for placements and other costs associated with children achieving Looked After Children status as a result of LASPO. The allocated grant for Bromley of £73,734 was considered to be insufficient and as a consequence, a sum of £500,000 was set aside in central contingency for 2013/14 should officer forecasts regarding demand be proven.

Actual and Indicative Expenditure

Placements

- 4.2 Expenditure on all actual remand placements for the 4 months April to July 2013 is summarised below:

REMAND TO YOUTH DETENTION ACCOMMODATION			
Type	Bednights	Unit Cost (1)	Cost
Youth Offender Institution (YOI)	140	163	22,820
Secure Children's Home (SCH)	48	580	27,840
Secure Training Centre (STC)	254	579	147,066
Total			197,726

REMAND TO LOCAL AUTHORITY ACCOMMODATION			
Type	Days	Unit Cost	Cost
Independent Living Hostel	15	26	390
Total			390

- 4.3 The total cost for placements for the 4 months April-July 2013 is £198,116. The monthly cost of remand placements is £49,529. For the purposes of providing an indication of costs for the full year 2013/14, if it is assumed that the rate at which young people are remanded remains constant (in terms of frequency and placement type) at £49,529 per month, **the full year cost of all types of remand placements for the financial year 2013/14 is estimated to be £594,348.**

Estimated Budgetary pressure

- 4.4 Bromley's total remand grant allocation from the Ministry of Justice in 2013/14 has been confirmed as £73,734.
- 4.5 The 2013/14 Children's Care Services Placement budget includes an allocation of £80,000 for remand placements.
- 4.6 The estimated budgetary pressure (ie the difference between the combined Ministry of Justice grant and the Care Service remand placement budget and the total costs arising from the new remand framework) for 2013/14 is therefore estimated to be £440,614 .
- 4.7 A note of caution should be applied to this estimate of the costs pressures associated with the transfer of financial responsibility for placements from the Ministry of Justice The cohort of young people who are held on remand is subject to unpredictability in terms of its volumes, demography, the type of remand, and the complexity and duration of support required.
- 4.8 Additionally, officers are monitoring the costs that are arising from the extension of LAC status to all young people held on remand and will provide detail on the future financial implications in a subsequent report.

5. LEGAL IMPLICATIONS

- 5.1 The youth remand provisions in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 come into force on 3 December 2012. Sections 91 to 107 and Schedule 12 make significant changes to the remand framework for 10 to 17 year olds in criminal proceedings. Where a child has been remanded on bail, they will continue to be treated under the Bail Act 1976. Where the court refuses bail, the new youth remand framework introduced by section 91 of the LASPO Act 2012 will permit the court to remand a child to local authority accommodation or to youth detention accommodation. Section 90 and Schedule 11, which also come into force on 3 December 2012, make less extensive, but significant, amendments to provisions affecting adult remand.
- 5.2 The youth remand framework applies to all children concerned in criminal proceedings. For these purposes a child is defined as a person under the age of 18 (section 91(6) of the LASPO Act 2012). However the age of criminal responsibility in England and Wales is set at 10 years of age.

Non-Applicable Sections:	Policy and Personnel Implications
Background Documents: (Access via Contact Officer)	[Title of document and date]