

EXECUTIVE NOTE TO
THE INTENSIVE SUPPORT AND MONITORING (SCOTLAND)
REGULATIONS 2008 SSI/2008/75

1. These Regulations are made in exercise of powers conferred by the Children (Scotland) Act 1995, in particular section 70. They revoke the Intensive Support and Monitoring (Scotland) Regulations 2006 (SSI 2006/15) and are subject to negative resolution procedure.

Policy Objectives

2. Part 12 of the Antisocial Behaviour etc (Scotland) Act 2004 introduced a new power for children's hearings to impose, as a condition of a supervision requirement, a movement restriction condition (MRC), if a child meets the criteria for secure accommodation, as set out in section 70(10) of the Children (Scotland) Act 1995; namely, that the child is otherwise likely to abscond, with risk to his welfare, or likely to injure himself or others, and also that it is necessary to proceed in such manner. A MRC requires the child to comply with such arrangements for monitoring his movements as may be required. Monitoring is via an electronic monitoring service.

3. The policy objective of these Regulations is to set out the arrangements for monitoring compliance with a MRC; to make provision in regard to the designation and functions of persons to monitor compliance; to prescribe certain conditions which the children's hearing may impose when imposing a MRC; and to set out the monitoring methods which may be used.

4. The vast majority of young people subject to a MRC will be the small number of serious and/or persistent young offenders or young people who put themselves at risk and for whom a wide range of interventions have been tried and failed. Ministers believe that for this very small number of young people, a MRC can be more effective than secure or residential accommodation, provided it is part of an intensive programme of supervision and support, including educational provision. A MRC should not, therefore, be imposed without a child's plan that covers the intensive support elements of the programme and how these will be delivered.

5. A MRC with intensive support can also be used to enable young people coming out of secure accommodation to "phase" their re-entry into the community, possibly leaving secure accommodation earlier than would otherwise be possible.

6. Children's hearings are required to review a secure accommodation authorisation after three months. It will be recommended in good practice guidance that the same review period should apply to a MRC. These Regulations provide that where the children's hearing considers it necessary to impose such a condition, the movement restriction period should not exceed 12 hours and the duration of the MRC should not exceed 6 months.

7. If a MRC is breached, the young person will be referred back to a children's hearing. It is possible that secure accommodation will be the sanction.

Purpose of Regulations

8. The Intensive Support and Monitoring (Scotland) Regulations 2006 apply to seven specified local government areas: the City of Edinburgh, Dundee City, East Dunbartonshire, Glasgow City, Highland, Moray and West Dunbartonshire. The 2006 Regulations set out the methods and devices which may be used for monitoring compliance with a MRC. They also set out the arrangements for monitoring compliance, and make provision for the designation and function of persons to monitor compliance, and variation of such designation. In addition they prescribe conditions to be imposed by a children's hearing, where they consider it to be necessary when imposing a MRC. Aside from some minor stylistic changes, these provisions are all restated in these Regulations.

9. An evaluation was carried out over the three year "phase one" period of the programme and it was made clear that there would be value in making the new powers available to all local authorities in Scotland. The purpose of these Regulations is to extend the powers detailed in the 2006 Regulations to all local authorities in Scotland.

10. In addition, these Regulations make provision for the children's hearing to impose further prescribed conditions as they consider necessary in the child's case, namely the need for contingency arrangements and planned respite care for the child, which conditions shall be included in the MRC.

Financial Effects

11. The terms of the concordat between central and local government commit to a reduction in central government monitoring of local government spending lines – this is reflected in the removal of ring-fenced resources for a significant amount of activity.

12. Funding to support youth justice activities, such as intensive support and monitoring will therefore not be ring-fenced from 1 April 2008, and will be included in the overall local government settlement. Every local authority area will have the flexibility to make decisions about what will best achieve good outcomes.

Consultation

13. Key stakeholders were invited to give their views on the draft regulations, including SCRA, relevant internal policy officials, Children's Hearing's Training Officers, COSLA, ADSW, voluntary organisations working with high risk young people, secure units, Youth Justice Coordinators and the residential sector. All responses were considered and responded to appropriately.

Scottish Government Children, Young People and Social Care Directorate
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