



Accounting Officer Memorandum

Oasis Restore (Medway) Secure School: Funding Agreement Arrangements

Accounting Officers have a standing responsibility to scrutinise policy proposals, projects or programmes and ensure the actions of the public organisation they lead meet the four Accounting Officer standards of *regularity, propriety, value for money, and feasibility* – as set out in Managing Public Money.

From April 2017, the government committed to making a summary of the key points from assessments available to Parliament when an Accounting Officer has conducted an assessment of a project or programme within the Government's Major Projects Portfolio (GMPP).

Background and Context

In March 2018, MoJ approved the use of Department for Education (DfE) legislation and use of the free schools' approach to set up secure schools. This required the use of an application process to appoint Oasis Charitable Trust as the provider rather than a Public Contracts Regulations (PRC) compliant procurement process and the use of a funding agreement model.

The funding agreement is a legally binding contract between the Secretary of State for Justice (SOSJ) and Oasis Restore Trust (ORT), which defines the terms and conditions on which secure schools are funded and what is expected by both trusts and the Department. Secretary of State Justice is expected to enter in the funding agreement with ORT in February/March 2023.

The aim of the project is to look beyond the current approach to youth custody and the prevalent MoJ approach to contracting with providers, signposting the intention to create a new type of child focused custodial provision, with education, health and care at its core, and a new type of relationship with providers

The Full Business Case (FBC) to support was approved by Ministers in May 2022, and HMT in June 2022 with full construction commencing at the Medway site in July 2022. Approval was also provided at FBC stage to progress work towards development of the funding agreement arrangement.

Since FBC approval, there has been an increase in expected operating costs of the secure school. Therefore, this assessment has been made at the point of Secretary of State Justice entering into the funding agreement as well as addressing changes in cost since FBC.



I have considered that the Oasis Restore Secure School Project has met the four Accounting Officer responsibilities, and there are no material accounting officer risks.

Regularity

In order to spend money with Regularity, Ministerial Government Departments must have cover in the ambit of the vote from the annual Supply Estimate and enabling legislation in place. The MoJ has cover in the Supply Estimate for Secure Schools under “expenditure and activities relating to youth justice”.

In terms of enabling legislation, following the passing of the PCSC Act (which gained Royal Assent on 28th April 2022), secure schools are now established in legislation as “secure 16 to 19 academies”. The Act also provides for the running and establishment of secure schools to be treated as a charitable activity.

There remains a legal risk that the award of the funding agreement to Oasis could be challenged under the Public Contract Regulations 2015 (PCR) as set out in the previous AO assessment but the funding agreement itself does not increase the risk of that. The DfE free school application process is also outside the scope of the PCR.

Oasis Restore Trust was formally incorporated by Companies House on Thursday 16 November 2022. Their public Section 10 consultation completed on 14 December 2022 with the report due on 22 December.

Given that Oasis Restore Trust is now established in legislation and the risk of legal challenge over the procurement route is relatively low, it is our assessment that the regularity standard can be passed.

Propriety

The secure school is a manifesto commitment with the FBC agreed in June 2022 and the Funding Agreement has been subject to a public consultation under Section 10 of the Academies Act.

The project has been subject to the appropriate level of department and wider governance in order to secure agreement to enter into the funding agreement and approve the revised projected resource and capital funding requirements which remain affordable within Departmental allocations at SR21. The original project SRO has recently left MoJ but the process of appointment to role for the new Executive Director of Youth Custody Services is underway.

Oasis Restore Trust will be classified as a public sector body and will be consolidated into the Departmental accounts

Subject to HMT approval to enter into the funding agreement our assessment that the propriety standard can be passed and the cost of the project remains within the HMPPS affordability envelope.

Value for Money

The net present cost (NPC) is now £286m over the thirty-year appraisal period falling to £191m when potential wider benefits are included. These benefits remain illustrative as this project is new and innovative, and an evaluation due to be commissioned in summer 2023 would look to find out if this innovation works.

The projected operating cost per place has increased as a result of the impact of inflation and refinement of the operating model since FBC. However, the cost per place for both capital and resource when compared to other parts of the education and custody sector are still deemed to fall within an acceptable range especially when the projected outcomes for children are significantly improved as a result of the enhanced provision.

The funding agreement includes a level of contractual obligations on Oasis Restore Trust including a level of performance assurance linked to benefits outlined in the FBC.

Our assessment is that the VfM standard can be passed subject to full evaluation being completed on outcomes and benefits.

Feasibility

This is a new and innovative project; transforming an existing STC into the Ministry of Justice's first secure school, which is being delivered against a complex and time restricted timeline.

Although the relevant legislative changes are now in place, there remain risks associated with delivery, specifically around provider readiness to open due to national recruitment challenges and Ofsted registration of the building as a secure children's home.

The project is considered feasible at this stage with plans and mitigations in place to manage the risks associated with entry into the funding agreement and subsequent progress towards opening of the secure school in early 2024.

Sign Off and Accounting Officer Approval

As the accounting officer for HMPPS I considered this assessment of the Oasis Restore Secure Schools Project and approved it on 10 January 2022.

I have prepared this summary to set out the key points which informed my decision. If any of these factors change materially during the remaining lifetime of this project, I will ensure a revised summary is prepared, setting out my assessment of the changes.

This summary will be published on GOV.UK. Copies will be deposited in the Library of the House of Commons and sent to the Comptroller and Auditor General and Treasury Officer of Accounts.

I have placed a copy in the Commons and a copy has also been provided to the Principal Accounting Officer for the Ministry of Justice, who has seen my assessment and endorsed my conclusion.

Amy Rees

HMPPS Chief Executive

Accounting Officer Assessment Memorandum endorsed by Antonia Romeo Principal Accounting Officer of Ministry of Justice