

EXPLANATORY MEMORANDUM TO
THE RECOVERY OF COSTS (REMAND TO YOUTH DETENTION
ACCOMMODATION) (AMENDMENT) REGULATIONS 2013

2013 No. 2243

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument amends the Recovery of Costs (Remand to Youth Detention Accommodation) Regulations 2013 which make provision about the recovery of costs from local authorities in respect of children who are remanded to youth detention accommodation.
 - 2.2 This instrument amends the amount the local authority for the child (designated by the court) is liable to pay the Youth Justice Board for England and Wales, where the child is detained on remand in a secure training centre.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 permits the Secretary of State to make provision about the recovery of costs, by regulations, from a local authority designated by the court, of a child remanded to youth detention accommodation and associated transport costs. Cost recovery may be undertaken by the Secretary of State, a provider of youth detention accommodation or the Youth Justice Board for England and Wales.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England and Wales.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The fall in the level of youth secure remand, 24 per cent between 2008/9 and 2011/12, had not matched the decline in the youth custody population of 32 per cent over the same period. Furthermore 60 per cent of children remanded securely in 2011/12 were acquitted or did not go on to receive a custodial sentence. A better approach to remand was needed: one that maintains community-led supervision, education and training and is focused on reducing the potential for offending.
- 7.2 From 1 April 2013 local authorities were therefore given greater financial responsibility for the secure remand of youths. Section 103(2) of the LASPO Act 2012 allows the Secretary of State to make provision for the recovery of the costs from local authorities of all 12 to 17 year olds remanded to youth detention accommodation. The Recovery of Costs (Remand to Youth Detention Accommodation) Regulations 2013 came into force on 1 April 2013 and makes provision about the recovery of costs from local authorities in respect of children who are remanded to youth detention accommodation. Youth detention accommodation comprises secure children's homes, secure training centres and young offender institutions.
- 7.3 This instrument amends the amount local authorities are liable to pay where children are detained on remand in secure training centres in order to reflect changes in the youth secure estate subsequent to 1 April 2013.
- 7.4 Secure training centres are run by private operators under contracts with either the Ministry of Justice or the Youth Justice Board for England and Wales. The cost element of each contract is subject to annual indexation and price changes occur at pre-agreed times; these times vary depending on the contract. The new amount set out in this instrument, £587, takes into account the contractual price components that have changed since 1 April 2013. This new amount applies in respect of any night where a child is detained on remand in a secure training centre from 1 October 2013, regardless of when the court ordered the remand.
- 7.5 From 1 December 2013 girls will no longer be detained in young offender institutions. This cohort, including those on remand, will be held in secure training centres. The new amount set out in this instrument, £583, reflects this change. This new amount applies in respect of any night where a child is detained on remand in a secure training centre from 1 December 2013, regardless of when the court ordered the remand.

8. Consultation outcome

- 8.1 The Ministry of Justice and the Youth Justice Board for England and Wales consulted on proposals to alter the level of costs recovered from local authorities from April 2013 onwards. An eight week consultation was undertaken through the

paper *The new remand framework for children: allocation of new burdens funding to local authorities*. The consultation closed on 16 November 2012. The Ministry of Justice and the Youth Justice Board's response to the consultation was published on 25 February 2013. Both the consultation paper and the response are available on the following link: <https://consult.justice.gov.uk/digital-communications/remand-funding/>

- 8.2 The changes to the amounts recoverable in this instrument are consequential to the terms of existing contracts and forthcoming changes to the youth secure estate. As a change in policy or procedure is not taking place, no further consultation has been conducted.

9. Guidance

- 9.1 The statutory instrument makes no changes to existing financial arrangements and transactions.

10. Impact

- 10.1 The changes set out in these regulations have no impact on the public sector. The price changes reflect both the in-year price indexation in secure training centre contracts and forthcoming changes to the youth secure estate.
- 10.2 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

- 11.1 The legislation does not apply to small businesses.

12. Monitoring & review

- 12.1 The arrangements for the recovery of costs will continue to be reviewed on a regular basis and legislation amended accordingly.

13. Contact

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