

EXPLANATORY MEMORANDUM TO
THE RECOVERY OF COSTS (REMAND TO YOUTH DETENTION
ACCOMMODATION) (AMENDMENT) REGULATIONS 2014

2014 No. 562

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 children's home, secure training centre or young offender institution.
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 The price for secure training centres was previously amended on 1 October 2013 through The Recovery of Costs (Remand to Youth Detention Accommodation) (Amendment) Regulations 2013 to reflect changes in the youth secure estate subsequent to 1 April 2013. The Recovery of Costs (Remand to Youth Detention Accommodation) (Amendment) Regulations 2014 further amend the amounts local authorities are liable to pay where children are detained on remand in secure children's homes, secure training centres and young offender institutions in order to reflect changes in the youth secure estate subsequent to 1 October 2013.
- 7.4 The Youth Justice Board recently undertook a new competition to provide it with places in secure children's homes. The competition has resulted in a new amount set out in this statutory instrument of £561 on 1 April 2014 and, to reflect a change in price at East Moor secure children's home, this will subsequently change to £555 on 1 May 2014.
- 7.5 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, £581, takes into account the contractual price components that have changed since 1 October 2013.
- 7.6 A new amount for young offender institutions, £158, is also set out in this instrument which takes into account changes in the number of persons that can be detained in individual establishments, decommissioning of establishments and

annual indexation and prices changes in a private sector establishment since 1 October 2013.

- 7.7 The new amounts set out in this instrument apply in respect of any night where a child is detained on remand in a secure training centre or young offender institution from 1 April 2014 or a secure children's home from 1 April 2014 and subsequently 1 May 2014, 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 changes to contracts, the terms of existing contracts and 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 Local authorities will continue to pay for remands to youth detention accommodation according to demand for places in secure children's homes, secure training centres and young offender institutions. The price changes reflect changes to contracts, the terms of existing contracts and 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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