

EXPLANATORY MEMORANDUM TO
THE RECOVERY OF COSTS (REMAND TO YOUTH DETENTION
ACCOMMODATION) (AMENDMENT) REGULATIONS 2023

2023 No. 310

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the amount the local authority designated by the court is liable to pay to the Secretary of State where a child is detained on remand in a Young Offender Institution (YOI), Secure Training Centre (STC) or Secure Children's Home (SCH).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The Legal Aid Sentencing and Punishment of Offenders Act 2012 ("LASPO 2012") gave local authorities greater financial responsibility for the secure remand of children. It also permits the Secretary of State, by regulations, to make provisions about the recovery of the costs of a child being remanded to youth detention accommodation and associated transport costs from a local authority that has been designated by the court. The Recovery of Costs (Remand to Youth Detention Accommodation) Regulations 2013 provide for cost recovery to be undertaken by the Secretary of State.

7. Policy background

What is being done and why?

- 7.1 The Recovery of Costs (Remand to Youth Detention Accommodation) Regulations 2013 set the amount local authorities are charged where a child is detained on remand to a YOI, STC or SCH.

- 7.2 This instrument amends the amounts charged on or after 1 April 2023. These prices are being changed to reflect the changes in the amount these services cost.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.3 The Recovery of Costs (Remand to Youth Detention Accommodation) Regulations 2013, which this instrument will amend, made provision about the recovery of costs from local authorities in respect of children who are remanded to youth detention accommodation.

Why is it being changed?

- 7.4 We are updating the applicable amount in respect of YOIs, STCs and SCHs for the next financial year, to reflect changes in the cost to remand children in these establishments in 2023.

What will it do now?

- 7.5 The new sector price (excluding education and additional charges) for children on remand in a YOI will be £328 as at 1 April 2023. This is an increase of £21 per place per night from £307 as at 1 April 2022. This increase has been driven by increased staff costs, maintenance costs, and wider inflationary pressures.
- 7.6 The new sector price for children on remand in a Secure Training Centre (STC) will be £838 as at 1 April 2023. This is an increase of £105 per place per night from £733 as at 1 April 2022. This increase has been driven by higher than expected costs last year and uplifted further based on contracted inflation for the upcoming year.
- 7.7 The new sector price for children on remand in a Secure Children's Home (SCH) will be £834 as at 1 April 2023. This is an increase of £64 per place per night from £770 as at 1 April 2022. This increase has been driven by annual contract inflation increases.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 No consolidation of the relevant legislation is planned.

10. Consultation outcome

- 10.1 The Government consulted publicly on proposals in 2012 through the paper "*The new remand framework for children: allocation of new burdens funding to local authorities*". The Ministry of Justice and Youth Justice Board's response to the consultation was published in February 2013. Both the consultation paper and the response are available via the following link: <https://consult.justice.gov.uk/digital-communications/remand-funding/>
- 10.2 The vast majority of respondents to the consultation paper felt that using per bed per night applicable amounts was a fair and reasonable way to recover costs. Respondents asked for transparency in the calculation of costs and a clear indication of the circumstances in which costs can and will be recovered. As with previous statutory instruments, this instrument implements the same methodology outlined in the

consultation paper in relation to determining the applicable amounts for STCs, SCHs and YOIs.¹ As the same methodology is being used to update the relevant figures, the consultation process remains relevant.

- 10.3 The Ministry of Justice may in future review the funding arrangements. While linked, plans to reform the arrangements do not negate the need to lay this SI to ensure that the correct amounts can be recovered from local authorities in 2023.

11. Guidance

- 11.1 The statutory instrument makes no changes to existing financial arrangements and transactions. Existing guidance is available on the GOV.UK website.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant, impact for business, charities, voluntary bodies or the public sector arising from this instrument.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is to review on a regular basis and amend legislation accordingly.

15. Contact

- 15.1 Emily Pignon at the Ministry of Justice, telephone 07866056138 or email: emily.pignon@justice.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Alan Webster, Deputy Director for Youth Justice Policy, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Minister Damian Hinds at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.

¹S.I. 2013/2243, 2014/562, 2014/981, 2014/2931, 2015/569, 2016/330, 2017/230, 2017/1147, 2018/250, 2018/498, 2018/1126, 2019/508, 2020/241, 2021/287 and 2022/274.