

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

**2013 No. 507**

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 replaces the Recovery of Costs (Remand to Youth Detention Accommodation) (England and Wales) Regulations 2012 and makes provision about the recovery of costs from local authorities in respect of children who are remanded to youth detention accommodation.
  - 2.2 The instrument sets out the amounts that the local authority for the child (as designated by the court) is liable to pay to the Youth Justice Board for England and Wales, where the child is remanded to a secure children's home, a secure training centre or a young offender institution.
  - 2.3 The instrument also makes provision for the payment of such amounts and the enforcement or repayment of such amounts in cases of default or mistake respectively.
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

- *What is being done and why*
- 7.1 Central government currently funds the majority of the costs incurred in respect of children remanded to youth detention accommodation. Local authorities pay approximately one third of the costs of remands to secure children's homes and secure training centres. They pay nothing towards the costs of remandees accommodated in young offender institutions. If a child is remanded to local authority accommodation and placed in the community (for example, into remand foster care), the local authority has to fund fully the costs that may arise. So there is currently very little financial incentive for the local authority to make community alternatives available as an option to the court making the remand decision.
- 7.2 Section 103(2) of the LASPO Act 2012, which came into force on 3 December 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) (England and Wales) Regulations 2012 ("2012 Regulations") makes provision for the recovery of the costs of accommodation in secure children's homes and secure training centres only.
- 7.3 From 1 April 2013, local authorities will have greater financial responsibility for secure remand. This will give local authorities the incentive to invest in alternatives to custody, and also, in the longer term, to shift their resources towards early intervention and prevention work. The fall in the level of youth secure remand, 24 per cent between 2008/9 and 2011/12, has not matched the decline in youth custody levels 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 is needed: one that maintains community-led supervision, education and training and is focused on reducing the potential for offending.
- 7.4 This instrument makes provision for the recovery by the Youth Justice Board for England and Wales from designated local authorities of the costs of remanding children to secure children's homes, secure training centres or young offender institutions. This instrument extends the current recovery of costs provisions to include recovery in respect of a remand in a young offender institution and amends the amounts to be recovered in respect of the two remaining sectors.

- 7.5 The provisions for the recovery of costs under this instrument apply in respect of any night where a child is subject to a remand from 1 April 2013, regardless of when the court ordered the remand to youth detention accommodation.
- 7.6 Under the 2012 Regulations, the provider of a secure children's home recovers two thirds of the cost of a child on remand in such accommodation from the Youth Justice Board for England and Wales and one third from the designated local authority. This instrument makes provision for the Youth Justice Board for England and Wales to recover a specified amount from the designated authority in respect of each night on which the child is remanded in the secure children's home. This amount is currently set at £580.
- 7.7 The Youth Justice Board for England and Wales pays for the cost of children on remand in secure training centres under existing contracts with private sector providers (recovering £233.56 from the designated local authority by virtue of the 2012 Regulations). This instrument makes provision for the Youth Justice Board for England and Wales to recover a specified amount from the designated authority in respect of each night on which the child is remanded in the secure training centre. This amount is current set at £579.
- 7.8 The Youth Justice Board for England and Wales currently does not recover costs in respect of the cost of remanding a child to a young offender institution. This instrument makes provision for the Youth Justice Board for England and Wales to recover a specified amount from the designated authority in respect of each night on which the child is remanded in the young offender institution. This amount is currently set at £163. As of 1 July 2013, this amount will be £157.
- 7.9 This instrument also provides that any amount owing by a designated local authority is enforceable as a civil debt.
- *Consolidation*
- 7.10 This statutory instrument does not amend any other statutory instruments and therefore no consolidation is required.

## **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 consultation paper made it clear that there were no plans to transfer funding to local authorities to meet the costs of remands to secure children's homes and secure training centres on the basis that this was not a new burden. The vast majority of respondents disagreed with the proposed approach. There was some acceptance that the original agreement, under which the Youth Justice Board for England and Wales defray two thirds of the cost of secure remand, was established as a short-term arrangement.

8.3 Respondents asked for transparency in the calculation of costs and a clear indication of the circumstances in which costs can and will be recovered. This information has been published alongside the consultation response. This instrument implements the proposals outlined in the consultation paper in relation to the recovery of costs.

## **9. Guidance**

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

## **10. Impact**

10.1 This instrument will ensure that local authorities are now responsible for the costs of accommodation for children who are remanded to youth detention accommodation. This instrument will ensure that those costs can be recovered from designated local authorities by the Youth Justice Board for England and Wales. There is no additional cost to the public sector overall but local authorities will be funding the full cost of remands to secure children's homes and secure training centres rather than one third.

10.2 An Impact Assessment has not been prepared for this instrument because no impact on the private sector or voluntary sector is foreseen.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 These arrangements for the recovery of costs will be reviewed on a regular basis and legislation amended accordingly.

## **13. Contact**

13.1 Richard Bishop at the Ministry of Justice Tel: 020 3334 4543 or email: richard.bishop1@justice.gsi.gov.uk can answer any queries regarding the instrument.