

EXPLANATORY MEMORANDUM TO
THE RECOVERY OF COSTS (REMAND TO YOUTH DETENTION
ACCOMMODATION) (AMENDMENT) REGULATIONS 2015

2015 No. 569

- 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 designated by the court is liable to pay the Youth Justice Board for England and Wales where a 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, by regulations, to make provision about the recovery from a local authority designated by the court in respect of the costs of a child being 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 make 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 children's homes will change from £555 to £559 on 1 April 2015 as the number of children detained on secure remand changes and to reflect annual price increases within this sector.
- 7.4 The cost of providing custodial services at Medway Secure Training Centre has reduced. Furthermore the cost of providing healthcare is in the process of being removed from the price for secure training centres as responsibility for commissioning is passed to NHS England in response to the reforms made by the Health and Social Care Act 2012. The price for secure training centres will therefore change from £529 to £497 on 1 April 2015.
- 7.5 The amount for young offender institutions is changing from £158 to £177 on 1 April 2015. This takes into account changes in the number of children detained within the sector, the effect of decommissioning Hindley Young Offender Institution, cost changes for the new financial year in public sector young offender institutions and annual indexation and prices changes in a private sector establishment.

8. Consultation outcome

- 8.1 The Ministry of Justice and the Youth Justice Board for England and Wales consulted publicly 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. 107 responses were received from a range of stakeholders including youth offending teams and local authorities. 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 via the following link: <https://consult.justice.gov.uk/digital-communications/remand-funding>

- 8.2 The vast majority of respondents to the consultation paper felt that using sector prices was a fair and reasonable way to recover costs and would help with financial planning. 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 was published alongside the consultation response and an updated version will be published by 1 April 2015. As with statutory instruments 2013/507, 2013/2243, 2014/562, 2014/981, 2014/2931, this instrument implements the proposals outlined in the consultation paper in relation to sector prices by updating them and taking into account the implementation of the Health and Social Care Act 2012.

9. Guidance

- 9.1 The statutory instrument makes no changes to existing financial arrangements and transactions and so existing guidance is being updated and will be made available on the GOV.UK website.

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.
- 10.2 An Impact Assessment has not been prepared for this instrument because no new impact on the private, public or voluntary sectors 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

Richard Bishop at the Ministry of Justice, Tel: 07580 701 046 or email: richard.bishop1@justice.gsi.gov.uk, can answer any queries regarding the instrument.