EXPLANATORY MEMORANDUM TO

THE RECOVERY OF COSTS (REMAND TO YOUTH DETENTION ACCOMMODATION) (AMENDMENT) REGULATIONS 2022

2022 No. 274

1. Introduction

1.1 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 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 territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument 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") 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.

6.2 This instrument sets the amount local authorities are charged where a child is detained on remand to a YOI, STC or SCH on or after 1 April 2021. This price is being changed to reflect the changes in the amount these services cost.

7. Policy background

What is being done and why?

7.1 From 1 April 2013 local authorities were given greater financial responsibility for the secure remand of children. Section 103(2) of the LASPO Act 2012 allows the Secretary of State to make provision for recovery of the costs from local authorities for 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 for such cost recovery. Youth detention accommodation comprises of YOIs, STCs and SCHs.

7.2 To coincide with the beginning of the new financial year on 1 April 2022, we are updating the applicable amount in respect of YOIs, STCs and SCHs to reflect changes in the cost to remand children in these establishments.

7.3 The new sector price (excluding education and additional charges) for children on remand in a YOI will be £307 as at 1 April 2022. This is a decrease of £8 per place per night from £315 as at 1 April 2021. The minor decrease is driven by the reopening of capacity at Feltham, which lowered the average cost per place and offset higher costs (inflation, pay award, and further youth justice workers).

7.4 The new sector price for children on remand in a Secure Training Centre (STC) will be £733 as at 1 April 2022. This is an increase of £159 per place per night from £574 as at 1 April 2021. The increase is driven by change in STC provision with the closure of Rainsbrook STC, leaving Oakhill (with higher unit costs) now making up the entire unit cost for the STC sector.

7.5 The new sector price for children on remand in a Secure Children's Home (SCH) will be £770 as at 1 April 2022. This is an increase of £17 per place per night from £753 as at 1 April 2021. The minor increase is driven by the annual contract inflation increase.

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 Ministry of Justice and the Youth Justice Board for England and Wales consulted publicly on proposals to alter 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 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/

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 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. 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.

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 An 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 arrangements for recovery of costs will continue to be reviewed on a regular basis and legislation amended accordingly.

15. Contact

15.1 Magali Provensal at the Ministry of Justice, telephone 07971068649 or email: Magali.Provensal2@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 Victoria Atkins at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.

[1] S.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 and 2021/287.