EXPLANATORY MEMORANDUM TO

THE RECOVERY OF COSTS (REMAND TO YOUTH DETENTION ACCOMMODATION) (AMENDMENT) REGULATIONS 2024

2024 No. 327

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 that a local authority, as designated by a 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). This year it also adds a cost for a new type of custodial establishment in the secure estate, the Secure School, which will open in 2024.

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 and are updated annually.

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 per night where a child is detained

on remand to a YOI, STC or SCH. This statutory instrument amends the amounts charged on by the Youth Custody Service or after 01 April 2024. These prices are being changed to reflect the changes in the amount these services cost.

7.2 This year we are also adding a price for the first Secure School which will open in 2024. Secure 16 to 19 academies, also known as Secure Schools, are a new form of provision for children sentenced or remanded to custody. The Police, Crime, Sentencing and Courts Act 2022 established them in legislation as both "secure 16 to 19 academies" under the Academies Act 2010 and secure children's homes under the Children's Homes (England) Regulations 2015. The first secure school will open in Spring 2024 in Medway, Kent, and will be run by Oasis Restore Trust. The secure school model has been developed in accordance with the best available quantitative and qualitative evidence of best practice for addressing the underlying causes of youth offending, including being small establishments, with healthcare and education at their heart.

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 2024. We also need to include a cost for the new Secure School.

What will it now do?

7.5 The new sector price for a YOI (excluding education and additional charges) will be £329 as of 01 April 2024. This is an increase of £1 (effectively 0%) per place per night from £328 as of 01 April 2023.

7.6 The STC price will be £921 as of 01 April 2024. This is an increase of £83 (around 10%) per place per night from £838 as of 01 April 2023. This is driven by higher-than-expected costs last year and uplifted further based on contracted inflation for the upcoming financial year. The average price of the STC has increased since the closure of Rainsbrook STC in December 2021, the only remaining STC now is a Private Financial Initiative (PFI) which has an element of purchasing the asset built into the yearly price.

7.7 The SCH price will be £887 as of 01 April 2024. This is an increase of £53 (around 6%) per place per night from £834 as of 01 April 2023, which is driven by annual contract inflation increases.

7.8 The Secure School price will be £772 as of 01 April 2024. This is the first year of operation for the Secure School so costs have been based on planned operational capacity and initial budgetary estimates which will be further developed as the school becomes fully operational.

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 for the youth remand cost recovery 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 online.[1]

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 2013 paper in relation to determining the applicable amounts for STCs, SCHs and YOIs. As the same methodology is being used to update the relevant figures, the consultation process remains relevant.

10.3 The Ministry of Justice has since consulted on the broader processes of youth remand funding paid to local authorities in August 2023.[2] The consultation was concerned with the wider principle behind the funding and how central and local government can enable alternatives to custodial remand, rather than with the cost recovery methodology. The consultation outlined the recent context in relation to the number of children being remanded to custody and provided some high-level options to reforming the payment process. Respondents broadly agreed that the funding had not enabled greater provision of alternatives to custody but were split on the potential options going forward.

10.4 Some respondents did however raise the system of bed night prices across these sectors and suggested that a sliding scale (depending on the length of the remand) could be applied to the bed night prices.

10.5 The Government responded to that consultation on 19 February 2024 setting out the responses received.[3] It set out plans to look further into regional funding arrangements and the provision of national accommodation, while also supporting a regional remand funding pilot in Greater Manchester. Stakeholder engagement will be ongoing in this process. We did not commit in the response to reviewing the processes around bed night prices for cost recovery.

10.6 Therefore, while linked, plans to reform the funding arrangements do not negate the need to lay this SI to ensure that the correct amounts can be recovered from local authorities in 2024/25.

[1] https://consult.justice.gov.uk/digital-communications/remand-funding/
[2] Consultation on youth remand funding arrangements - GOV.UK (www.gov.uk)
[3] Response to the consultation on youth remand funding arrangements - GOV.UK (www.gov.uk)

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 significant impact on business, charities or voluntary bodies.

12.2 There is no significant impact on the public sector, and currently the payments made to local authorities reflect the increasing costs to them of YOI remands.

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 Rt Hon Edward Argar MP, Minister at the Ministry of Justice, can confirm that this Explanatory Memorandum meets the required standard.