



Ministry
of Justice



Youth Justice Board
Bwrdd Cyfiawnder Ieuencid

**PAYMENT AND COST RECOVERY
ARRANGEMENTS IN RESPECT OF
CHILDREN DETAINED ON REMAND IN
YOUTH DETENTION ACCOMMODATION**

1. The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 introduced a new remand framework for 10 to 17 year olds on 3 December 2012. The key changes made by the legislation were as follows:
 - 10 to 17 year olds are treated according to the same remand framework (including remands to local authority accommodation or youth detention accommodation) regardless of their age and gender;
 - the court must first consider whether to remand a child or young person on bail. Where the court does not release the child or young person on bail it should consider whether to remand to local authority accommodation or whether, if the child or young person is aged 12-17, the conditions for a remand to youth detention accommodation are met;
 - 17 year olds who are remanded are now treated in the same way as younger children. They may therefore now be remanded to local authority accommodation;
 - 12-17 year olds can only be remanded to youth detention accommodation if they meet one of two sets of conditions. The first set of conditions is based on the type of offending. The second set of conditions is based on the history of absconding or offending together with whether there is a real prospect of a custodial sentence;
 - every child or young person remanded to youth detention accommodation are now treated as “looked after” by their designated local authority; and
 - placement of children and young people remanded to youth detention accommodation is a function of the Secretary of State for Justice but this power is exercised concurrently and in practice by the Youth Justice Board for England and Wales (YJB).
2. A remand to youth detention accommodation is currently to one of the following forms of secure accommodation: a secure children’s home (SCH); a secure training centre (STC); or a young offender institution (YOI).
3. The youth remand provisions in the LASPO Act 2012 also paved the way for giving local authorities greater financial responsibility for remands to youth detention accommodation. The consultation paper *The New Remand Framework for Children: Allocation of New Burdens Funding to Local Authorities* set out:
 - plans for allocation of new burdens funding to local authorities in England and Wales in relation to remands to youth detention accommodation in YOIs;
 - plans for recovery of the costs of remands to youth detention accommodation from local authorities in England and Wales;
 - proposals in relation to meeting the costs of escorting remanded children and young people to and from youth detention accommodation; and
 - plans for allocating new burdens funding to local authorities in England and Wales in relation to the extension of the treatment of children and young people as “looked after” to all children and young people remanded to youth detention accommodation.
4. These proposals and plans came into force on 1 April 2013. The consultation and the Ministry of Justice and the YJB’s response to it can be found here: consult.justice.gov.uk/digital-communications/remand-funding/

THE PAYMENT PROCESS

5. Generally local authorities each receive a single payment from the Ministry of Justice in April for the entirety of the financial year in respect of children detained on remand in YOIs and the treatment of such children as “looked after”. Such payments reflect a reasonable estimate of demand using the most recently available data and the YOI remand sector price. These payments are made under s.103(4) of the LASPO Act 2012 and s.31 of the Local Government Act 2003 and should not be confused with the Youth Justice Grant for youth offending teams (YOTs) which are made under s.41(5)(g) of the Crime and Disorder Act 1998.
6. The YJB is aware that a number of local authorities have made changes to their boundaries and operating arrangements. Where this has been communicated to the YJB, payment arrangements are altered accordingly. For local authorities who have not informed the YJB of such changes it is recommended that, on receipt of the funding, local authorities reappropriate the funding as necessary and notify the YJB.
7. The funding provided in respect of children and young people detained on remand and “looked after” children is not ring-fenced but it is intended that local authorities will use the funding to: (1) make payments to the YJB pursuant to regulations concerning the recovery of the costs of accommodation of a child or young person who has been remanded to youth detention accommodation; and (2) meet costs where a child or young person detained on remand in a YOI is “looked after”. Where possible and appropriate, local authorities may wish to seek advice from their financial department on arrangements for carrying-over funding into the next financial year.

COST RECOVERY ARRANGEMENTS

8. Under *The Recovery of Costs (Remand to Youth Detention Accommodation) Regulations 2013* the YJB recovers costs from local authorities in respect of each night on which a child or young person has been remanded to youth detention accommodation. These costs are recovered on a monthly basis in arrears.¹ Costs, through remand sector prices, are recovered from the local authority designated by the court when the remand is made. Further information on sector prices is set out at paragraph 20 below.
9. Cost recovery operates through an invoicing system managed by the YJB. Where a child has been remanded to youth detention accommodation and placed in a SCH, STC or YOI, the YJB sends an invoice to the designated local authority’s finance department at the end of each month.
10. Local authorities are invoiced for each night on which the child or young person is detained in youth detention accommodation. Costs are still recovered from the local authority in respect of short periods of time spent away from youth detention accommodation, for example an overnight stay in hospital.
11. Where a child or young person’s remand to youth detention accommodation overlaps with the time spent in such accommodation serving a custodial sentence, for example, the custodial part of a Detention and Training Order, costs will not be recovered from the local authority. Where the remand to youth detention accommodation begins before the custodial sentence, costs

¹ Under *The Recovery of Costs (Remand to Youth Detention Accommodation) (England and Wales) Regulations 2012* providers recovered costs in respect of children detained on remand in SCHs and the YJB recovered costs in respect of STCs.

will be recovered up to the date the sentence begins. Where the remand to youth detention accommodation finishes after the time spent in such accommodation serving a custodial sentence, costs will be recovered from the local authority from the date the custodial element of the sentence ceases.

12. Costs are recoverable from the local authority for all remand periods prior to a child or young person's 18th birthday. The court can make a determination in relation to an individual's age. Orders made pursuant to that determination will not be invalidated by subsequent information that indicates that individual is not under 18 years of age. In the event that a local authority believes that the court has incorrectly stated the child or young person's age, evidence can be presented to the court so that it can consider restating the child or young person's age for the purposes of new orders.
13. When an age assessment has been completed, and, if the child or young person is deemed to be over 18, the YJB will cease to recover costs for the child. However, the cost of the initial remand to youth detention accommodation for the initial period of remand is still recoverable from the designated local authority. It is therefore imperative that where a local authority believes a child or young person is over 18 an age assessment is completed as quickly as possible.
14. An invoice must be paid in full by the designated local authority to the YJB within 30 days of receipt.

DESIGNATED AUTHORITY AND LIABILITY TO PAY

15. Where a child or young person is remanded to youth detention accommodation, the YJB consults the local authority designated by the court before making the placement decision. This will be initiated through completion of the Placement Information Form which will provide the details of the local authority the court has designated. In circumstances where the YOT completing the Placement Information Form is not the designated local authority e.g. the YOT is the court duty YOT, the YJB will conduct the consultation with the designated local authority as set out in the guidance on completing the Placement Information Form which can be found here: www.justice.gov.uk/youth-justice/custody/placing-young-people-in-custody
16. During the course of the child or young person's placement in youth detention accommodation on remand they are treated as "looked after". Local authorities should therefore bring to the YJB's Placement Service's attention any issue which it believes should cause the original placement decision to be reviewed.
17. In the event that a local authority believes that they have been incorrectly identified as the designated authority (for example where further information arises in relation to a child or young person's habitual residence or Looked After Status etc), such evidence can be presented to the court in order that they may consider an application to alter which local authority is designated for any remand periods to date. Where such an application has been granted, the YJB will then recover costs from the newly designated local authority for the remand period(s) for which it has been designated, and any monies paid by the original local authority are repayable. However, the newly designated local authority does not attract responsibility for the purposes of the child or young person's LAC status for that (those) earlier period(s) of remand. It is therefore imperative that as much research as possible is

completed at the time of the initial remand to ensure that the appropriate local authority is designated by the court.²

² The Crime and Courts Act 2013 amended the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to provide the courts with a power to alter retrospectively which local authority has previously been designated by the court so that the Youth Justice Board may recover costs from the newly designated local authority for the original remand period..

LOOKED AFTER CHILDREN

18. All children and young people remanded to youth detention accommodation are treated as “looked after” under the LASPO Act 2012. This imposes statutory duties on the local authority designated by the court in respect of that child or young person. Where a child or young person has been remanded to youth detention accommodation but is simultaneously in youth detention accommodation serving the custodial part of a sentence, e.g. the custodial part of a Detention and Training Order, the child or young person is still “looked after” for the period of their remand. Where a child or young person turns 18 years of age during their remand to youth detention accommodation, they will cease to be “looked after” although it should be noted that they may still be treated as care leavers. Guidance on looked after children, which includes a supplement about looked after children and youth justice (updated in 2013), can be viewed via the link below:

www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review

Guidance on care leavers is at this link

www.gov.uk/government/publications/children-act-1989-transition-to-adulthood-for-care-leavers

SECTOR PRICES

19. Youth detention accommodation currently consists of three sectors: secure children's homes (SCHs), secure training centres (STCs) and young offender institutions (YOIs). From 1 April 2013 the Youth Justice Board (YJB) has been recovering the cost of accommodation in relation to a child or young person who has been remanded to any of the three sectors of youth detention accommodation. Recovery is from designated local authorities on the basis of one price per sector per child or young person per night ("sector price"). The sector price ensures that the same charge applies to all users of a defined category of service. For example the same charge applies to a child or young person detained on remand in the context of criminal proceedings in any secure training centre.

THE SECTOR PRICE

20. The sector price is an amount per night which uses historic remand occupancy levels in all establishments within a sector in combination with the costs of services at each establishment in order to ensure that the same charge applies to all users of a defined category of service. The use of one price per sector provides greater certainty for local authorities as it means costs are unaffected by variable occupancy rates. As a result, sector prices make financial planning for local authorities easier whilst making the cost recovery system less complex and burdensome to deliver.

21. The sector prices have been determined in accordance with the following steps:

Step 1: Bed-night cost per establishment

22. For each institution within a sector, e.g. for each STC, the cost of services that are available to remandees are calculated at a daily rate. Further information on the services that are included in the bed-night cost per establishment is set out at paragraphs 28 to 44 and the accompanying tables.

Step 2: Average historical bed-night usage per establishment

23. An average of the number of places used in each establishment within the secure estate by children and young people on remand has been calculated over a three-year period. Calculating an average over this period of time provides a fair reflection of the number of places used in each institution for remand purposes.

24. Where decommissioning has occurred, consideration has been given to where children and young people detained on remand in the decommissioned institution will now be placed.

Step 3: Average nightly total cost of all beds in a sector

25. In respect of each institution within the secure estate the daily rate at **Step 1** has been multiplied by the average number of places used in each establishment, calculated at **Step 2**. The product for each institution within each sector has been added together. This provides a monetary figure that represents the average nightly total cost of all beds within a given sector for a three-year period.

Step 4: Total number of places in a sector

26. The average number of places used in each establishment within the secure estate, as calculated at **Step 2**, has then been added together for each sector to provide the total number of places used in each sector for the three-year period.

Step 5: The sector price

27. The figure at **Step 3** has then been divided by the figure at **Step 4** in order to produce a sector price that represents the average nightly cost of a bed within a given sector.

THE SERVICES INCLUDED IN THE BED-NIGHT COST PER ESTABLISHMENT USED TO CALCULATE THE SECTOR PRICES

28. The costs in respect of all services listed in the tables below are used to calculate the sector prices for the purposes of recovering costs from local authorities. The costs used to calculate sector prices are those that accrue to the YJB on the date the sector price comes into force. Services that do not apply to children and young people on remand have not been included and some services that accrue to the YJB have also not been included e.g. education costs in YOIs.
29. For public sector YOIs the full annual cost for all relevant services is divided by the total number of places commissioned at the establishment. This is for both remand places and sentenced places (where relevant) and provides a cost per place per year. The cost per place per year is then divided by 365 (days) to provide a cost per place per night for each service for the financial year.
30. For private sector YOIs, as well as SCHs and STCs, the cost of services per child or young person per night is included in the cost set out in the contract with the provider of each establishment.
31. In STCs and all YOIs, however, advocacy services are set out in separate contracts which contain a total cost for the advocacy service. This total cost is then divided by the number of remand and sentenced places commissioned across all establishments to which the individual contract relates and then divided by 365 (days) to provide a price per place per night for each service.

Secure Children’s Homes (SCH)

32. The YJB contracts local authorities to provide SCHs. SCHs provide children and young people with support tailored to their individual needs. To achieve this, they have a high ratio of staff to children and are generally small facilities, ranging in size from 8 to 40 beds.
33. SCHs are generally used to accommodate children aged 12 to 14, girls and 15 to 16 year-old boys who are assessed as having needs that are best met by this environment.
34. The YJB currently has contracts for places for children and young people on remand in the following SCHs: Adel Beck (formerly East Moor), Aldine House, Aycliffe Young People's Centre, Barton Moss Secure Unit, Clayfields House, Hillside, Lincolnshire Secure Unit, Swanwick Lodge and Vinney Green.
35. The services provided in all of the above SCHs are set out below.

	Description of service	The basis for the cost	Service included in the SCH sector price?
Custodial services	Core services to operate the establishment and maintain its safety and security.	The contract between the provider and the YJB.	✓

	Description of service	The basis for the cost	Service included in the SCH sector price?
Provider overheads	Central services costs including central HR functions and management functions.	The contract between the provider and the YJB.	✓
Building and site maintenance	Costs for maintaining the site and buildings.	The contract between the provider and the YJB.	✓
Education	Covers all education services including classroom and vocational based learning.	The contract between the provider and the YJB.	✓
Healthcare	Covers all healthcare services such as GP, dental and those to meet primary care needs. Healthcare is commissioned and paid for separately by NHS England.		✗
Children's substance misuse service	Substance Misuse Services are commissioned and paid for separately by the local Drug and Alcohol Action Team.		✗
Advocacy	Independent service that gives children and young people access to independent advice and support from adults who they can contact directly and in private about problems or concerns, which is appropriate to their age and understanding.	The contract between the provider and the YJB.	✓
YOT worker	Dedicated staff in post to manage the case management process, particularly around remanded children and young people. No such dedicated staff post - the contract requires effective case management systems which are delivered with no additional funding requirements.		✗
Social workers	Engagement as necessary between LA children's services and other agencies in order to meet the needs of the child or young person.	The contract between the provider and the YJB.	✓
Business rates	Business rates are a tax on non-domestic property. The YJB as commissioner of these services also bears the costs of business rates which are levelled by local authorities.	The contract between the provider and the YJB.	✓
VAT	These services do not attract VAT.		✗

Secure Training Centres (STC)

36. STCs are purpose-built centres for children and young people between 12 and 17 years old. They are run by private operators under contracts, which set out detailed operational requirements. STCs are designed to accommodate children and young people who are sentenced to custody or remanded to youth detention accommodation and can cater for a range of children’s needs including those with high risk factors.

37. The MoJ currently has contracts for places for children on remand in the following STCs: Rainsbrook, Oakhill and Medway.

38. The services provided in the above STCs are set out below.

	Description of service	The basis for the cost	Service included in the STC sector price?
Custodial services	Core services to operate the establishment and maintain its safety and security.	The contract between the provider and the MoJ.	✓
Provider overheads	Central services costs including central HR functions and management functions.	The contract between the provider and the MoJ.	✓
Building and site maintenance	Costs for maintaining the site and buildings.	The contract between the provider and the MoJ.	✓
Education	Covers all education services including classroom and vocational based learning.	The contract between the provider and the MoJ.	✓
Healthcare	Covers all healthcare services such as GP, dental and those to meet primary care needs.	In respect of Oakhill, the contract between the provider and the MoJ.	× Rainsbrook × Medway ✓ Oakhill
Children’s substance misuse service	Substance Misuse Services are commissioned and paid for separately by the local Drug and Alcohol Action Team.		×
Advocacy	Children and young people have access to independent advice and support from adults who they can contact directly and in private about problems or concerns, which is appropriate to their age and understanding.	The contract between the provider and the YJB.	✓

	Description of service	The basis for the cost	Service included in the STC sector price?
YOT worker	Dedicated staff in post to manage the case management process, particularly around remanded children. No such dedicated staff post - the main contract requires effective case management systems which are delivered with no additional funding requirements.		✗
Social workers	Engagement as necessary between LA children's services and other agencies in order to meet the needs of the child or young person and fulfil statutory duties under Section 11 of the Children Act 2004.	The contract between the provider and the MoJ.	✓
Business rates	Business rates are a tax on non-domestic property. The YJB as commissioner of these services also bears the costs of business rates which are levelled by local authorities. These are a separate charge to the YJB and these costs are not included in the sector price.		✗
VAT	Although these services do attract VAT the MoJ can recover it in some cases and so this has not been included in the sector price.		✗

Public sector under-18 young offender institutions (YOI)

39. Public sector YOIs are facilities run by the National Offender Management Service (NOMS) and normally accommodate 15 to 17-year-olds. YOIs have lower ratios of staff to children than STCs and SCHs and accommodate larger numbers of children and young people.
40. The YJB currently has a Service Level Agreement with NOMS and the Ministry of Justice for places for children and young people on remand in the following public sector under-18 YOIs: Cookham Wood, Feltham, Hindley, Werrington and Wetherby.
41. The services provided in the above public sector under-18 YOIs are set out below.

	Description of service	The basis for the cost	Service included in the YOI sector price?
Custodial services	Core services to operate the establishment and maintain its safety and security.	In the Service Level Agreement with NOMS.	✓
Provider overheads	Central services costs including central HR functions and management functions.	In the Service Level Agreement with NOMS.	✓
Building and site maintenance	Local (provider) maintenance of buildings and site is included in the Service Level Agreement. Large capital works and improvements are paid to the Ministry of Justice.		✓
Education	Covers all education services including classroom and vocational based learning. Commissioned by the Education Funding Agency and separately paid for by the MoJ.		✗
Healthcare	Covers all healthcare services such as GP, dental and those to meet primary care needs. Healthcare is commissioned and paid for separately by the Offender Health Area Team.		✗
Children's substance misuse service	Funding and commissioning responsibility for children's substance misuse services in YOIs was transferred to the Department of Health in April 2011.		✗
Advocacy	Children and young people have access to independent advice and support from adults who they can contact directly and in private about problems or concerns, which is appropriate to their age and understanding.	The contract between the provider and the YJB.	✓

	Description of service	The basis for the cost	Service included in the YOI sector price?
Independent adjudications	The adjudications process deals with alleged disciplinary offences in respect of the rules of the establishment. Where the seriousness of the allegations might lead to more severe penalties including the imposition of additional days on a child's sentence, independent adjudicators are involved.	In the Service Level Agreement with NOMS.	✓
Ministry of Justice controllers	Ministry of Justice Controllers have a statutory duty to oversee compliance with contracts and compliance with release procedures in private sector YOIs.		✗
Ministry of Justice Controllers Travel and Subsistence			✗
YOT worker	YOT workers are only present where public sector YOIs have used their funding allocation to second YOT workers.		✗
Social workers	Children and family social workers provide specialist professional knowledge and expertise to assist YOI managers to fulfil their statutory duties under Section 11 of the Children Act 2004.	In the Service Level Agreement with NOMS.	✓
Business rates	Business rates are a tax on non-domestic property. The YJB as commissioner of these services also bears the costs of business rates which are levelled by local authorities.	Business rates are paid to MoJ.	✓
VAT	These services do not attract VAT.		✗

Private sector under-18 young offender institutions (YOI)

42. Private sector YOIs are facilities run by private sector organisations pursuant to contracts with NOMS and normally accommodate 15 to 17-year-olds. YOIs have lower ratios of staff to children than STCs and SCHs and accommodate larger numbers of children and young people.
43. The YJB currently has a Service Level Agreement with NOMS who contract for places for children on remand in the following private sector under-18 YOI: Parc.
44. The services provided in the above private sector under-18 YOI are set out below.

	Description of service	The basis for the cost	Service included in the YOI sector price?
Custodial services	Core services to operate the establishment and maintain its safety and security.	In the Service Level Agreement with NOMS.	✓
Provider overheads	Central services costs including central HR functions and management functions.	In the Service Level Agreement with NOMS.	✓
Building and site maintenance	Local (provider) maintenance of buildings and site is included in the Agreement with NOMS. Large capital works and improvements are paid to the Ministry of Justice.	In the Service Level Agreement with NOMS.	✓
Education	Covers all education services including classroom and vocational based learning.	In the Service Level Agreement with NOMS.	✓
Healthcare	Covers all healthcare services such as GP, dental and those to meet primary care needs.	In the Service Level Agreement with NOMS.	✓
Children's substance misuse service	Funding and commissioning responsibility for children's substance misuse services in YOIs was transferred to the Department of Health in April 2011.	In the Service Level Agreement with NOMS.	✓
Advocacy	Children and young people have access to independent advice and support from adults who they can contact directly and in private about problems or concerns, which is appropriate to their age and understanding.	The contract between the provider and the YJB.	✓
Independent adjudications	The adjudications process deals with alleged disciplinary offences in respect of the rules of the establishment. Where the seriousness of the allegations might lead to more severe penalties including the imposition of additional days on a child's sentence, independent adjudicators are involved.	In the Service Level Agreement with NOMS.	✓

	Description of service	The basis for the cost	Service included in the YOI sector price?
Ministry of Justice controllers	Ministry of Justice Controllers have a statutory duty to oversee compliance with contracts and compliance with release procedures in private sector YOIs.	In the Service Level Agreement with NOMS.	✓
Ministry of Justice Controllers Travel and Subsistence	Ministry of Justice Controllers have a statutory duty to oversee compliance with contracts and compliance with release procedures in private sector YOIs.		✗
YOT worker	YOT workers provide specialist professional knowledge and expertise to assist YOI managers to fulfil their case management duties in collaboration with community YOTs – especially in relation to remanded children.	In the Service Level Agreement with NOMS.	✓
Social workers	Children and family social workers provide specialist professional knowledge and expertise to assist YOI managers to fulfil their statutory duties under Section 11 of the Children Act 2004.	In the Service Level Agreement with NOMS.	✓
Business rates	Business rates are a tax on non-domestic property. The YJB as commissioner of these services also bears the costs of business rates which are levelled by local authorities.	Business rates are not included in the agreement with NOMS for Parc as this is largely a prison and so this element is paid for by the MoJ rather than the YJB.	✗
VAT	Although these services do attract VAT the MoJ can recover it in some cases and so this has not been included in the sector price.		✗