

Criminal Justice Alliance response to Transforming Management of Young Adults in Custody.

About the Criminal Justice Alliance

The Criminal Justice Alliance (CJA) is a coalition of 74 organisations - including campaigning charities, voluntary sector service providers, research institutions, staff associations and trade unions – involved in policy and practice across the criminal justice system.¹ The Criminal Justice Alliance works to establish a fairer and more effective criminal justice system.

The Criminal Justice Alliance is a founding member of the Transition to Adulthood Alliance.² This submission argues that there is the need for a distinct approach to young adults within custody (as well as across the entire criminal justice system), and that this must be an approach that is proportionate to their maturity and responsive to their specific needs. Our key points are as follows:

- **This age group as a whole needs a distinct approach (rather than simply some individuals within it).** We welcome the statement by the Minister that “Many young adults are still maturing and sometimes lack the skills to negotiate complex social situations.” We note the word “many” and wish to stress that these reforms should not assume most young adults can cope in a mixed setting, and then only give support to those who appear very vulnerable within this cohort. Rather the evidence points to the *assumption* of lack of maturity and the need for a distinct approach to this age group as a whole, with additional support for those who need this.
- **These proposals do not offer any safeguards or protections for young adults, nor any evidence of how these measures would better serve and protect young adults.** We cannot therefore support the current proposals to mix young adults in what seems to be a move away from distinct provision. There should be at the very least some statutory safeguard for this group, akin to the rights accorded to care leavers for example.
- **We are extremely concerned that these measures will lead to a reduction in the resources allocated to young adults.** There are no mechanisms within the proposals to ensure current spending on this group does not simply dissipate across the prison estate to the detriment of this group. For example, there is no reason why resources currently spent on young adults held in YOIs might not be spent filling black holes in Prison Governor’s budgets rather than providing distinct custodial services for this group. We advocate some form of a ‘pupil premium’ to ensure that current spending in YOIs follows young adults in the adult estate. Without any such mechanism, there can be no other conclusion than that these proposals will reduce funding for a vulnerable group.

¹ Although the CJA works closely with its members, this consultation response should not be seen to represent the views or policy positions of each individual member organisation.

² For more information on the T2A Alliance, see <http://www.t2a.org.uk/alliance>

- **We agree with the Ministry of Justice assessment that the current system is not working.** As the consultation document outlines, high reoffending rates, high levels of violence and high levels of self harm (as well as a huge range of other needs) show that current YOIs are not meeting the needs and challenges presented by this distinct group. However, we question whether the measures proposed offer any real solution, and will not simply serve to shift problems elsewhere in the prison estate. We have yet to see how a more rehabilitative and safe custodial regime for young adults could be assured within these proposals.
- **The Ministry of Justice should hold a wider review of the entire criminal justice system’s approach to young adults with the aim to reduce numbers of young adults in custody where appropriate.** This review should take into account international evidence and best practice. The MoJ should also actively consider a Young Adult Justice Board or allocating responsibility for this age group to the YJB.
- **Government policy on the management of young adults in custody should accord some responsibility to DfE, Health and Cabinet Office at ministerial level.** We note the recent positive moves by DfE to allow young people in foster care to remain with their families until the age of 21 - a recognition of their ongoing needs and the fact that young people outside the care system often have family support into their early 20s. Given the high numbers of young adults in prison who are also care leavers, it seems counter-intuitive to us to fail to address their needs.

Response to Consultation Questions

Question 1: We are proposing that our new policy accommodates young adults in mixed institutions with other adults and that we target resources on addressing the risks and needs of young adults in all these institutions. Do you agree?

The proposals, as currently drafted, offer no legal safeguards at all for this group, were they to be mixed within the wider adult population, and cannot ensure a distinct approach would be taken. Whilst we agree with the MoJ assessment that the DYOI sentence is far from ideal and that the current YOI system is failing, we cannot support the removal of the only statutory protection accorded to this group without a set of rights in its place. Therefore, we strongly urge the government to consider a set of rights, similar to those accorded to care leavers, for all young adults held in custody.

We also support the proposal in T2A Alliance recent report that a Prison Service Order be drawn up emphasising the distinctive needs of this age group. This should draw on the existing PSI for juveniles which stresses the importance of contact with families and carers, the influence of peers in behaviour, impulsivity and short term thinking, emotional immaturity, even when a young person appears physically mature and the potential to grow out of crime.³

We note that the consultation states that removal of the DYOI “does not mean we want to strip protections away from young adults. On the contrary, we propose to target resources away from dedicated institutions and into safer and more effective services”. However, there are no fiscal mechanisms to prevent the reduction in the financial and staff resources allocated to young adults. At present the cost per place in a young adult YOI is more than the average for the prison service as a whole. Therefore, implementing these measures will release money but it is impossible to guarantee that the current spending on this group will not simply dissipate across

³ *Ibid.*

the prison estate to the detriment of this group. For example, there is no reason why resources currently spent on young adults held in YOIs might not be spent filling black holes in Prison Governor's budgets rather than providing distinct custodial services for this group. We advocate some form of a 'pupil premium' to ensure that current spending in YOIs follows young adults in the adult estate. Without any such mechanism, there can be no other conclusion than that these proposals will reduce funding for a vulnerable group.

As the submission of the T2A Alliance makes clear, the best available evidence demonstrates that young adults need a well-resourced and distinct approach, and examples of best practice can be found in Europe.⁴ We draw the MoJ attention to recent experiment in the German State of Baden-Wuerttemberg, where pre-trial young adults detainees were placed in mixed institutions (previously they were held in juvenile facilities). The experiment was a failure and resulted in a lack of tailored educational and vocational provision for this age group and a lack of specific support programmes. Most worryingly, staff were concerned about the safety of younger inmates and how they would be treated by older prisoners. The consequence of this was young adults being locked in their cells for 23 hours a day. The German government has since recognised that this reform was a mistake and has clarified the law so that all young adults pre-trial detainees are now to be regularly places in juvenile facilities. Whilst any international comparison must be treated with caution, the recent German experience demonstrates a clear need for more robust evidence before such a widespread change.⁵

Question 2: Drawing on the available evidence, what other factors around risks, needs and circumstances, including age, should we take into account when looking at how we manage young adults in mixed adult custodial institutions?

Young adults need to be recognised as a distinct group within custody. As the consultation document acknowledges, people mature at different rates, and many young adults in the criminal justice system exhibit development levels more characteristic of far younger people. Brain development continues into the mid to late 20s, affecting reason, judgement and impulse control, and young people with the most troubled or traumatic childhoods often take a lot longer to mature. A literature review published in 2011 by the University of Birmingham for the T2A Alliance⁶ concluded that:

“Development of those areas of the brain concerned with higher order cognitive processes and executive functions, including control of impulses and regulation and interpretation of emotions, continues into early adulthood; the human brain is not ‘mature’ until the early to mid-twenties.”

Young adulthood is also a critical age for getting any intervention right. Young adults are the most likely age group to desist and ‘grow out of crime’. The wrong intervention at this time, such as a wasteful short prison sentence, can extend the period during which a young person might commit crime. Between the ages of 18 and 24, the focus should be on encouraging desistance from crime and supporting the factors which reduce criminal behaviour, for example employment, housing and good health.

We agree with the Ministry of Justice assessment that young adults often have greater literacy and employment needs than older adults; that they have a different pattern of drug use to adults

⁴ Allen, R. (2013) *Young Adults in Custody: The Way Forward*, Transition to Adulthood Alliance. http://www.barrowcadbury.org.uk/wp-content/uploads/2013/10/Young-Adults-in-Custody_V3.pdf

⁵ Note by Dr Ineke Pruin, University of Greifswald, Germany ‘Young adult pre-trial detainees in adult prisons: Recent experiences from Germany’

⁶ <http://www.t2a.org.uk/wp-content/uploads/2011/09/Birmingham-University-Maturity-final-literature-review-report.pdf>

and that they may have different patterns of alcohol misuse. However, we disagree with the suggestion that family ties are less important, and would stress that much greater analysis is needed around young adults' health and mental health needs than is provided.

Firstly, family ties for this age group can include both their relationship with parents, carers and wider family, but they may also be young parents themselves. A quarter of young men in YOIs are young fathers. Work by the T2A Alliance pilots has demonstrated the need for family support for young adults in the community who are involved in the justice system. Given the importance of parents in the transition to adulthood T2A pilots placed much greater emphasis on these relationships, especially those between the young adult and his or her mother. This work may often be different to traditional 'family intervention' because the clients are young adults on the way to independence. The work is therefore best characterised as family mediation rather than intervention; working with mutually supportive but increasingly independent parties.⁷

In terms of mental health we highlight the very recent report by Young Minds, *Same Old...*⁸ which details the experience of young offenders with mental health needs. Whilst many prisoners of all ages experience mental health needs, the report details the particular challenges faced by this age group in accessing support including rigid criteria and high thresholds for adult services; transition between services; and a lack of consistent worker relationships. At the point where young people are making their transition to adulthood, child and youth-focused support services such as care services, child and adolescent mental health services, children's services and youth offending services fall away leaving them more vulnerable.

In terms of wider circumstances, it is important to note that wider societal context for young adults has changed; the age at which someone becomes a fully independent adult in society is much later now than it was forty years ago. The criminal justice system's arbitrary determination that those over the age of 18 are 'adults' is out of step with cultural and social norms of transitions to adulthood, and fails to recognise changes in broader society. These changes are being better reflected by other government departments. For example, the Department for Work and Pensions has policies specifically aimed at young people aged 18-24, on account of their specific needs and life stage. Most recently the DfE has taken the welcome step of allowing young people in foster care to remain with their foster families until the age of 21 - a recognition of their ongoing needs and the fact that young people outside the care system often have family support into their early 20s.

Finally, and of most concern, there are large number of risks associated with this age group in custody. Analysis by CJA member, INQUEST, of recent deaths of young adults in custody shows that a large number of young people who died in custody were diagnosed with ADHD, special educational needs, personality disorders, conduct disorders, attachment disorders and other vulnerabilities – some of which have a statistical link to self-harm and suicide; and that there was an inadequacy of staff training in mental health awareness and issues to deal with these vulnerabilities.

Question 3: How do we best allocate young adults to institutions in the adult estate to enable a safe and effective custodial sentence and resettlement into the community?

As we have stated, the Criminal Justice Alliance does not support the move towards widespread allocation of young adults across the prison estate without further research evidence, and believes the current set of proposals as drafted cannot offer a safe and effective sentence. We also stress that clearly not all prisons will be at all suitable for young adults. The Ministry of

⁷ <http://www.t2a.org.uk/wp-content/uploads/2012/05/T2A-Summative-Evaluation-Catch22-2012.pdf>

⁸ http://www.youngminds.org.uk/assets/0000/9472/Barrow_Cadbury_Report.pdf

Justice should clearly set out what are the minimum standards, regime, care and environment necessary for a prison to be suitable for a young adult. There are key features that need to be taken into consideration:

- Closeness to home with very good access to family visits and other forms of contact including in cell phones
- Sufficient staff levels (at least to the level that which was provided in YOIs). We address the issues around staff training and skills in question 7.
- Adequate training and educational facilities that are appropriate for this age group
- Good resettlement planning tailored to this age group
- Smaller size prisons – the Inspectorate found that size was an important factor in how prisons performed against tests of safety and respect

In addition, we would like to see a wider range of residential placements developed for young adults, and the piloting of a Secure College.

The question of allocation raises the issue of whether many of the young adults currently held in prison could be better managed elsewhere. The Ministry of Justice should hold a wider review of the entire criminal justice system's approach to young adults, with the aim to reduce numbers of young adults in custody where appropriate. This review should take into account international evidence and best practice. The MoJ should also actively consider a Young Adult Justice Board or allocating responsibility for this age group to the YJB.

Importantly, any such review should also include an independent review of deaths of young adults in prison as recommended in report by CJA members INQUEST and the Prison Reform Trust *Fatally Flawed*.⁹ We understand the Government is currently reconsidering its original decision not to hold a review into deaths in custody and would urge the government to reverse this decision. Changes proposed in this consultation to the management of young adults in custody make this necessary work more urgent.

Question 4: Are there other ways that we should consider addressing both positive and negative aspects of peer relationships in custody?

The consultation identifies the issue of gang involvement and levels of violence in peer relationships. Rob Allen's report for the T2A Alliance highlights that there are strong links between domestic abuse and serious youth violence. Therefore interventions within custody should take account of this, and socio therapeutic approaches to violence should be piloted.

In addition to the points raised in the consultation document, we wish to highlight the positive work of organisations that support ex-offenders to go back into prison as role models for those currently serving their sentence and the work of peer mentors in prison.

Question 5: In the context of our proposed new approach, what specific additional measures can we take, including in how we tackle drugs issues, to ensure that young adults experience the custodial environment as safe, and are consequently able to focus on rehabilitation and change?

The drug use of young adults is different from that of older offenders and will therefore require a different approach. A report by Addaction, *Share the Learning*, outlines that drug treatment

⁹ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fatally%20Flawed.pdf>

services are often not attuned to the needs of the young adults. Adult treatment services are more geared towards opiate users, whilst young adults who misuse drugs tend to use alcohol, cannabis, cocaine and ecstasy – the ‘ACCE group’.¹⁰ It also highlighted that for this age group it is not effective to just focus on drug and alcohol use in isolation. A more effective approach built young adults self-esteem and confidence, strengthened family relationships and improved physical and mental health, fitness and general wellbeing and was tailored to the individual’s circumstances. It is unclear how a distinct approach to the health needs of young adults will be maintained within the proposed plans.

Question 6: What else can we do to support the effective transition of young adults from the juvenile estate, and ensure continuity of support and access to appropriate services?

The right intervention can facilitate desistance, while the wrong intervention can increase offending and extend the period that a young adult is engaged with criminal justice agencies. It is during this point of maximum vulnerability and at the peak age for offending that most youth services stop and young people who were engaged have to change agencies or lose their support altogether. It is at this difficult point that young adults at 18 must move between two very different institutions in terms of staff, culture and services; the current proposals are likely to exacerbate this transition.

We have previously supported NOMS Transitions Protocol which provides guidance on managing transitions in custody, but this would need to be revised if these measures go ahead.¹¹ We share concerns of the T2A Alliance that the Ministry of Justice is making proposals in the absence of decisions about the secure estate for under 18’s about which a consultation process was undertaken in the first half of 2013, or the review of custodial violence that is due to report early next year.

Question 7: What specific skills and experiences do you think staff working with young adults should be supported to develop?

We share concerns of the T2A Alliance that staffing levels in YOIs have dropped substantially in recent years, which we believe has contributed to the rising level of violence in some institutions. It is deeply saddening and unacceptable that 42 young adults (aged 18-24 years old) have died in custody since the start of 2011¹², three quarters of whom were in non-YOI provision at the time of their death, while a quarter were on remand awaiting sentence. The consultation should directly consider appropriate staffing levels for this age group.

There are also huge concerns about enacting these reforms at a time when the prison estate is undergoing significant reductions in budgets. We are unconvinced that there are resources available to train staff effectively to work with this age group. Indeed, we understand from our members’ experience that prisons are currently cutting back on staff training – particularly training from voluntary sector providers.

The majority of the skills staff need to work with 18-21 year olds will be similar to those required in the youth estate. We would anticipate a good deal of the learning re staffing from the MoJ’s recent consultation on the youth secure estate could be adopted where appropriate.

As well as having some of the core skills applicable for work with children and young people, our member organisations inform us that specialist skills and training are needed to work with young adults in their transition to adulthood. This should be based on an understanding of

¹⁰ <http://www.addaction.org.uk/news.asp?section=80&postComment=NO&itemid=940>

¹¹ <http://www.justice.gov.uk/youth-justice/youth-to-adult-transitions>

¹² Inquest figures

developing maturity and the fact that this age group is often simultaneously more vulnerable and violent than older counterparts. For example, a core skill needed is managing conflict and reducing volatility, often through mediation, and an understanding that young adults can be less emotionally stable than older adults. Training of staff to work with young adults will often entail changing the culture of a prison, as well as supporting staff to understand their own reaction to challenging behaviour so they can deal with it effectively. Unfortunately, the proposals do not offer any assurance that finances will be available to train staff to work with young adults.

Additionally, instead of just supporting staff to develop skills, working with young adults should be a specialism. The young adult age group is distinct, requiring a different approach. The desire of individual staff to do this work is important, as well as giving staff adequate training and ongoing support.

Question 9: How might we most effectively take into account the needs of groups with protected characteristics?

We welcome the new independent initiative, backed by the Ministry of Justice, that has been set up to review the outcomes and over-representation of young BAME men throughout the criminal justice process. The review, 'Improving outcomes for Muslim and African/Caribbean young male offenders – An Independent Review led by Baroness Young of Hornsey', will report initially in December 2013 and again in autumn 2014. This work is being convened by Black Training and Enterprise Group (BTEG) and Clinks. The MoJ should link the findings of this review into any proposals on work on young adults in the custodial estate.

Question 10: How can we ensure that these proposals, in as much as they apply to the women's estate, are proportionately reflected across the women's estate and reflect any distinct needs of women?

We are concerned about the lack of provision for young adult women in the women's prison estate which should be urgently addressed. It is welcome that between Dec 2011 and 30 Sept 2013, the number of 18 to 20 year old young adult women sentenced to custody went down from 227 to 140 (a decrease of 38%) and that numbers held on remand have reduced also. However, unlike the under 18s this data is not broken down to give details re ethnicity or other needs, which would help us understand the data more fully.

The distinct needs of women have been adequately covered in Baroness Corston's review and subsequent publications by CJA members including the Prison Reform Trust, Women in Prison and Women's Breakout. Given the low numbers of young adult women held in custody, there is a risk their distinct needs, risks and vulnerabilities are overlooked. We therefore believe that the MoJ should also actively consider a Young Adult Justice Board or allocating responsibility for this age group to the YJB which would enable more focus to be given to young adult women in the secure estate.

Conclusion

It is clear that in their late teens and early twenties young adults go through a huge transition from adolescence to adulthood. The evidence shows that young adults are a distinct group with developing maturity; the most effective approaches recognise this fact and provide an age-appropriate response. The proposals set out in this consultation do not offer any statutory safeguards to ensure a distinct approach for this group. Without any such safeguards, mixing young adults with older adults across the prison estate poses a serious risk that they will be unseen and unsupported.