



T2A submission to the Sentencing Council consultation on Sentencing Youths – Overarching Principles and Offence-Specific Guidelines for Sexual Offences and Robbery

The Transition to Adulthood (T2A) Alliance, a coalition of criminal justice, health and youth organisations, produces and promotes evidence for effective ways of working with young adults (aged 18-25) who commit crime.¹ It has helped to establish a growing consensus that criminal justice system responses to the behaviour of young adults should reflect their variable developmental maturity and provide an approach that is distinct from those for both children and older adults. The evidence gathered over the last decade is underpinned by research on brain development in young adulthood suggesting that impulse control, reasoning, and decision-making capacities are in formation through the mid-20s. Aspects of justice system practice in England and Wales have adjusted in recognition of this evidence. Adult sentencing decisions have, since 2011, included maturity as a mitigating factor. From 2013, the Crown Prosecution Service began taking maturity into account as part of its public interest test.

Members of the T2A Alliance welcomed the opportunity to meet with the Sentencing Council on 6 June 2016 to discuss its consultation on Sentencing Youths. We were pleased to hear that the Council was open to considering ways in the principles could be applied to the sentencing of young adults, despite the remit of the guidance being limited to defendants under 18 years old.

We believe that nearly all of the sentencing principles outlined in the guidance are relevant to young adults and would benefit this age group. Young adults are the most likely age group to be convicted of crime, but also the most likely to desist and "grow out of crime". The focus of criminal justice interaction with young adults should therefore be on encouraging desistance and supporting the factors which reduce criminal behaviour, such as education, training, employment, housing and good health. Young adults are also likely to benefit from being given an opportunity to address their behaviour and changing their conduct. Restorative practices are commonly employed when responding to the offending behaviour of juveniles and should be similarly extended to young adults.

The statutory obligation for sentencers to have regard to the welfare of a young person should also apply to young adults. Young adults in trouble with the law often have complex needs and are from backgrounds of great disadvantage. Young adult offenders frequently have few or no educational qualifications, and no experience of

¹ <http://www.t2a.org.uk/>

work. A large proportion are care leavers and as such are entitled to receive local authority support up until the age of 24. Many young adults suffer from poor mental health, and alcohol and drug misuse problems. These are often even more acute during someone's transition to adulthood, as child-focused support services - such as care services, child and adolescent mental health services, children's services and youth offending services—fall away when they reach the age of 18.

T2A, in partnership with the Centre for Justice Innovation, is in the process of piloting a network of young adult courts designed to test the impact of a tailored process in court for young adults aged 18-25.² These would likely include (i) specialist court listings for young adults; (ii) youth-specialist magistrates presiding over the hearings; (iii) family involvement at court; (iv) adapting existing youth court procedurally fair courtroom language and communication; (v) an adapted courtroom environment more conducive to engagement. The feasibility study has shown that this approach is possible within current legislation and feasible with only a few amendments to existing practice. There is reason to believe that this has real potential to improve young adults' experience and perception of the justice system and consequently may increase compliance with the law and rehabilitation.

As part of the pilot, we would be keen to explore with the Sentencing Council ways in which the principles and obligations outlined in the sentencing youths guidelines could be applied in the sentencing of young adults. This could be done with a view to improving practice and guidance in the sentencing of this age group, building on the welcome recognition of age and/or lack of maturity as a mitigating factor in adult sentencing guidelines.

More generally, T2A supports the following evidence-based recommendations³ for improving provision for the sentencing of young adults:

1. Adult sentencing guidelines should recognise lack of maturity, where it is linked to the commission of an offence, as a factor indicating lower culpability. The work of the T2A Alliance has shown that many young adults exhibit immaturity that may be related to their offending, with research into brain development identifying a range of developmental changes that continue through the young adult age range. The fact that immaturity can affect judgment and impulse control, in particular, suggests that it may be causally related to offending and should be considered as a relevant factor in determining culpability. Within the current structure of the Sentencing Council's guidelines, this would see 'Age/lack of maturity where linked to the commission of the offence' included as a factor indicating lower culpability, taken into account at Step 1 of the process, and (to prevent double counting) 'Age/lack of maturity where not linked to the commission of the offence' included as a factor reflecting personal mitigation, taken into account at Step 2 of the process. This should be the case for all future sentencing guidelines.

² See T2A and CJI (2016) *Young Adults in Court: Developing a Tailored Approach*, London: T2A CJI. Available at <http://www.t2a.org.uk/wp-content/uploads/2015/12/Young-Adults-in-Court.pdf>

³ Adapted from CJA (2011) *Sentencing young adults: Getting it right*. London: CJA. Available at <http://www.t2a.org.uk/wp-content/uploads/2016/02/CJAgettingitright1.pdf>

2. Sentencers need better training on lack of maturity and its impact on offending behaviour, as well as on how to assess maturity and how to respond effectively. T2A has had contact with a number of criminal justice practitioners who have expressed concern about a lack of training and guidance available to sentencers on how the mitigating factor on age/lack of maturity should be interpreted. The recently introduced National Probation Service requirement for a mandatory consideration of maturity in cases involving all young adults aged 18-24 underlines the need for sentencers to understand the importance of maturity and its relevance to sentencing decisions.⁴ All sentencers should be given training and information on maturity, including through the Judicial College's initial training for new judicial office-holders and their continuing professional education for existing sentencers.

3. Sentencers need greater awareness of what provision suitable for young adults is available in the community in their area. Research has suggested that there is a general lack of knowledge amongst sentencers about the availability of community order requirements in their local areas, which may be contributing to the infrequent use of requirements such as the Attendance Centre Requirement, the Mental Health Treatment Requirement and the Alcohol Treatment Requirement.⁵ A detailed knowledge of the available services, and who they can most appropriately be used for, would help to ensure that community sentences are effectively tailored to best prevent reoffending by young adults. More needs to be done to ensure that all sentencers have this knowledge.

We would welcome the opportunity to meet to discuss these proposals. If such a meeting would be helpful, please contact Mark Day, T2A's public affairs lead, on 020 7689 7746 or email mark.day@prisonreformtrust.org.uk

⁴ PSI 04 2016 requires that "PSRs completed on 18 – 24 year old offenders must include consideration of maturity".

⁵ Mair, G., Cross, N. and Taylor, S. (2008) The community order and the suspended sentence order: The views and attitudes of sentencers, London: Centre for Crime and Justice Studies; Khanom, H., Samele, C. and Rutherford, M. (2009) A missed opportunity? Community sentences and the mental health treatment requirement, London: Centre for Mental Health.