

**CONSULTATION ON DRAFT INCENTIVES AND EARNED PRIVILEGES POLICY  
FRAMEWORK**

**FEEDBACK FORM**

**TO BE RETURNED TO [deregulation\\_consultation@justice.gov.uk](mailto:deregulation_consultation@justice.gov.uk) BY 1 OCTOBER 2018**

<b>Stakeholder Name</b>	Transition to Adulthood (T2A) Alliance
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<b>Date Feedback Form Returned</b>	Leave blank – for internal use only

We value your comments on all aspects of the draft Policy Framework. Please respond to any or all of the questions below. The first set of questions relate to each section of the policy. The second set (from page 4) relate to areas where we are particularly seeking stakeholder views. A final question, (on page 5), allows you to offer any additional comments you may wish to make.

**Introduction**

There has been a 31% fall in number of young adults aged 18-24 in prison since June 2011. This age group now make up 17% of the total prison population, although their number are expected to rise modestly again according to the latest prison population projections. While the fall in number of young adults in custody is welcome, as HM Inspectorate of Prisons has highlighted, “those who remained in custody were inevitably some of the most vulnerable and troubled young adults.” (HMIP Annual report 2015-16).

Young adult men in custody are increasingly serving longer prison sentences, with a growing proportion not due to be released until well into their early-to-mid-adulthood. A disproportionate number of young adults in custody are from BAME backgrounds. Many have specific faith and cultural needs. A large number come from backgrounds of social and economic disadvantage. A significant proportion are care leavers. Many have undiagnosed or unmet mental health needs or learning disabilities or suffer impairments as a result of traumatic brain injury. The small number of young adult women in custody have distinct needs, particularly in relation to education and mental health.

The last decade has seen significant changes to the management of young adults in custody, including the re-rolling of a number of sole designated young adult YOIs and adult prisons as “mixed” establishments. The result of this is that young adults in prison are increasingly held in a variety of establishments, only three of which are dedicated YOIs. Outcomes for young adults held in both mixed and dual designated establishments are poor, with particularly bad results recorded by inspectors for both safety and purposeful activity. For instance, the HM Inspectorate of Prisons annual report 2016-2017 found that time spent unlocked was particularly poor for young adults in prison. 30% said they spent less than two hours a day out of their cell, and only 7% were out of their cell for more than 10 hours a day. Despite the distinct needs of young adults, confirmed in the research literature and acknowledged in Ministry of Justice and HMPs policy and practice guidance, inspectors found that “Most prisons made little distinction in the treatment of this age group” (HMIP Annual report 2016-17).

**Comment on the draft policy framework**

**Consideration of prisoners with specific requirements**

It is important that the distinct needs of young adults and other prisoners with specific requirements are recognised in the Policy Framework. However, there are elements here which should clearly be requirements (and not just guidance) to meet equality and diversity expectations. This section should also emphasise the importance of meeting with individuals or groups, including young adults, who might have specific requirements as part of the process for establishing and reviewing local policy. Given the disproportionate number of young adults who are from a BAME background, building on recommendation 24 of the Lammy Review, this could be done as part of the work of the proposed IEP forum outlined in paragraph 5.16 of the draft framework.

HMPPS has published and is consulting on a series of 'Model of Operational Delivery (MOD)' documents which include good practice for groups of prisoners with specific need, including young adults. Though these documents contain encouraging recognition of good practice, their lack of mandatory requirements mean that they could easily get lost amongst competing expectations. Cross referencing them in relevant places in Policy Frameworks such as this one would be an important step in keeping this at the forefront of Governor's minds and tying together otherwise separate pieces of guidance.

Overall, we welcome the inclusion of procedural justice and positive reinforcement both in the guidance and evidence sections of the draft framework. This has the potential to improve the effectiveness of the scheme for young adults. Research suggests procedural fairness matters for everyone but there is particular evidence that it may matter especially for young adults (Murphy, K. (2015). Does procedural justice matter to youth? Comparing adults' and youths' willingness to collaborate with police. *Policing and Society*, 25(1), 53-76. 27 Murphy, K. & Gaylor, A. (2010). Policing youth: Can procedural justice nurture youth cooperation with police? Alfred Deakin Research Institute, Working Paper no. 6). Schemes which promote and reward good behaviour rather than punish poor behaviour have also been shown to be more effective with young adults (HMIP (2018) *Incentivising and Promoting Good Behaviour*). However, as the Prison Reform Trust outlines in its response to the consultation, these principles are not followed through elsewhere in the document. The Trust has made detailed recommendations for how to operationalise the principles of both procedural justice and positive reinforcement throughout the document.

### **Maturity (paragraph 7.35)**

***In relation to paragraph 7.35 on maturity, while this section identifies some of the characteristics associated with young adults, it contains little by way of guidance to staff on how to take account of these characteristics as part of an incentives scheme.*** This is concerning given the findings of the recent HM Inspectorate of Prisons thematic on incentivising and promoting good behaviour with children and young adults (See <https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2018/03/Incentivising-and-promoting-good-behaviour-Web-2018.pdf> ). The report identified a number of concerns regarding the effectiveness of existing IEP schemes for children and young adults. It found that:

IEP schemes were too punitive:

*1.9 Despite evidence pointing to the greater effectiveness of rewards over sanctions, most schemes we saw focused on punitive measures rather than rewarding, encouraging and celebrating positive behaviour. This was particularly the case in the young adult institutions. The increased use of the current basic regime for this age group has not been effective in driving an improvement in behaviour and we believe a different approach is required.*

Review periods were too long and many young adults on the basic regime felt they had nothing to lose by behaving badly:

*1.10 Many young people we interviewed during this inspection voiced legitimate concerns about the operation of rewards and sanctions in custodial institutions. Young people and staff told us that the timeframes that the schemes operated on were too long – this limited their effectiveness and had a demotivating effect on the young people. Young people found it difficult to work towards rewards over a prolonged period of weeks and many of those on the lowest levels felt that they no longer had anything to lose by behaving badly. The ineffectiveness of the schemes meant the behaviour of young people did not improve, despite spending significant periods of time on the basic regime.*

The application of the IEP scheme was inconsistent:

*1.11 Inspections of individual establishments regularly report that the application of the incentives scheme is inconsistent. In our survey young people expressed negative views of the fairness of the rewards and sanctions schemes in their establishment. This was supported in our interviews, where young people and staff consistently told us how some young people were treated differently by the scheme and that this was viewed as favouritism from staff. In addition we found many examples where young people said that not receiving incentives they had earned, or witnessing sanctions not being enforced, had fundamentally undermined their views on how fairly the scheme was applied.*

Sanctions were not properly explained to young people and there was insufficient attention to target-setting and review:

*1.12 Some young people we spoke to were unsure about why they had received a sanction, or if they had any behavioural targets to meet to progress through the levels of the scheme. We found evidence to support this in our analysis of their case notes which, in too many cases, showed no evidence of reviews or targets.*

Incentives were not linked to sentence plans and offender managers and caseworkers had little input into review meetings:

*1.13 Young people and staff reported that the most motivating long-term incentives for young people were linked to sentence planning, including access to release on temporary licence (ROTL) and early release. However, we found few links to the sentence planning process in our review of behaviour management; offender supervisors and case workers had little input in behaviour management reviews and residential staff were often absent from sentence planning review meetings.*

***Therefore, we recommend that this section is revised to provide specific operational guidance to staff on how incentives and sanctions schemes should be adapted to meet the specific needs of young adults.*** This could be done by redrafting paragraph 7.35 to reflect recommendations 1.14 and 1.15 of HM Inspectorate of Prisons thematic on incentivising and promoting good behaviour with children and young adults:

*1.14 The behaviour of young people should be reviewed regularly and they should be set meaningful targets that are relevant to their sentence plan goals.*

*1.15 Rewards and sanctions schemes should focus on promoting and rewarding good behaviour rather than punishing poor behaviour. The consequences of poor behaviour should be proportionate, swiftly implemented and short in duration. Young people should not be punished for significant periods of time for one infringement or in a way that gives them nothing to lose or work towards. Management of these schemes should be improved*

*to ensure staff implement both rewards and sanctions consistently and fairly.*

### **Interventions for young people who display the most difficult behaviour**

The inspectorate highlighted specific concerns regarding the ineffectiveness of existing incentives and sanctions schemes for young adults who display the most challenging behaviour:

*1.19 The significant reduction of the population of children in custody over the previous five years is welcome, but it has presented challenges for institutions as the proportion of children convicted of more serious offences has increased. We do not believe that population changes are the sole or main driver of increasing poor behaviour and violence. Too often we find institutions which accept poor behaviour as unavoidable instead of setting and maintaining high standards. However, there are now some young people within the estate who do not respond positively to existing behaviour management schemes and who require a higher level of support than is currently offered. In many cases where there were reports of consistently poor behaviour that was not improving through application of the rewards and sanctions scheme, no other strategy was put in place to manage the behaviour.*

*1.20 We have significant concerns about a lack of intervention for young adults; we often found individuals living in austere conditions for long periods of time while they were on the lowest level of the incentives scheme. Section 1. Key findings and recommendations 10 Incentivising and promoting good behaviour*

*1.21 A lack of effective response to young people with mental health needs or learning disabilities was a contributory factor in their poor behaviour. We found a lack of individualised support plans for these young people with input from a range of disciplines including education and health care professionals.*

*1.22 Although young people with complex needs are the most difficult to manage, the absence of any intervention other than continuing on the lowest level of the incentives scheme was unacceptable. We would expect these young people to have an individual support plan in place to manage their behaviour, with short-term incentives and regular contact with staff.*

*1.23 The approach to managing the complex needs of this population was not strategic; the Youth Custody Improvement Board report in February 2017 identified the lack of a needs assessment at a national level, which we believe is needed to inform the commissioning of interventions or treatment.*

***Therefore, we recommend that the draft policy framework is revised to include specific guidance on how to manage this group, with particular reference to the recommendations (paragraphs 1.24 and 1.25) of the inspectorate's thematic:***

*1.24 HM Prison and Probation Service (HMPPS) should carry out a needs analysis of young people held in custody, with sufficient focus on the identification of mental health and learning disabilities, to enable effective commissioning of services.*

*1.25 Young people who do not respond to the incentives and sanctions scheme should be subject to an individual support plan that includes regular input from health care, education and residential members of staff.*

## Annexes

Please identify the relevant Annex and provide any feedback below

**Name of the policy;** IEP schemes have been criticised for being focused on punishment, rather than incentives and some prisoners may have a negative perception of IEP. We welcome suggestions for a new name for this policy, if you consider this would help with its successful implementation.

**Minimum review period;** 5.12 of the draft policy gives discretion to Governors to determine the period of time between privilege level reviews, subject to a safeguard of 12 months. Unless specified above, we welcome your views on whether the 12-month safeguard is adequate or whether a shorter timeframe is feasible and preferred.

**Prison-issue clothing;** Unless specified above, we welcome your views on 5.24 of the policy which requires all convicted prisoners, including prisoners in female prisons to wear prison-issue clothing, as the default position, in line with the Prison Rules, but gives Governors the authority to make provision in their local IEP policy for prisoners to wear their own clothes as a privilege at any IEP level, including Basic. This ensures that national policy on prison-issue clothing is the same for male and female prisoners. A prisoner has challenged the existing policy – which allows convicted female prisoners to wear their own clothing, whilst this is an earned privilege for convicted male prisoners - through Judicial Review, claiming it unlawfully discriminates against male prisoners on grounds of their sex.

**Do you have any other comments about the draft IEP Policy Framework that you would like to be taken into account?**

Yes       No

If you have answered Yes, please provide feedback below

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