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**T2A submission to Commission on Young Lives
November 2021**

[**https://thecommissiononyounglives.co.uk/**](https://thecommissiononyounglives.co.uk/)

***Please not: the numbers on the left relate to the sections of the Consultation we felt were relevant to respond to.***

The Transition to Adulthood (T2A) Alliance evidences and promotes effective approaches for young adults (18-25) throughout the criminal justice system (CJS). It is an alliance of 15 leading criminal justice, health and youth organisations (listed on our [website](https://t2a.org.uk/about-us/t2a-alliance-members/)), convened and funded by the Barrow Cadbury Trust, has been making the case for a distinct approach for young adults in the criminal justice system for over a decade based on an irrefutable body of evidence from neuroscience that the brain is not fully formed until at least the mid-20s.

Despite the strength of this evidence, few aspects of law and policy in England and Wales recognise the evolving capacities of young adults. Exceptions include the raising of the upper age limit for local authority responsibilities towards care leavers. In some policy areas, including housing and employment benefit entitlements and the minimum wage, young adults are assumed to have lower financial needs than older adults. T2A believes that government must recognise that young adulthood is a specific stage of life to be considered across all policy areas e.g. education, housing, and employment. Our specific area of expertise is criminal justice, so our submission focuses particularly on that area of policy.

1. **What leads to vulnerability and crisis and why aren’t services as effective as young people and families need them to be?**

The age of criminal responsibility was lowered to 10 in 1998 during a period of particularly acute negative rhetoric around youth offending. Over 20 years later there has been little serious political consideration about the appropriateness of this or of the upper age limit for youth justice which is currently 17. T2A is concerned that the existing legislation neither meets international conventions nor reflects the growing international neuroscientific evidence on brain development which demonstrates that young adults typically have more psychosocial similarities to older children than to adults in their reasoning and decision-making.

A 2011 [literature review](https://t2a.org.uk/wp-content/uploads/2011/09/Birmingham-University-Maturity-final-literature-review-report.pdf) by Birmingham University on maturity and criminal justice found that temperance and impulse control, located in the frontal lobes at the front of the brain, are among the last areas of the brain to develop fully, often as late in life as the mid-twenties. In 2020, the Scottish Sentencing Council commissioned a [systematic review](https://www.scottishsentencingcouncil.org.uk/media/2044/20200219-ssc-cognitive-maturity-literature-review.pdf) of the current neurological, neuropsychological, and psychological evidence on cognitive maturity which confirmed that the adolescent brain continues to develop into adulthood and does not reach full maturity until approximately 25-30 years of age. As the areas of the brain governing emotion develop sooner than those which assist with cognitive abilities and self-control, the resulting imbalance explains the increased risk-taking and emotionally driven behaviour commonly attributed to young people which increases the likelihood of offending.

From a brain development perspective, young adulthood is also a stage of life where behaviour change is more readily possible. There is a crucial window of opportunity where a pro-social identity and desistance from crime can be cultivated because the ‘plasticity’ of young adult brains means that it is a particularly good time for learning, personal growth and the development of pro-social identity. However, by virtue of their stage of development young adults can quickly become disillusioned and disengaged from professionals if support is not forthcoming, appropriate, or timely. Young adults’ experiences of the justice system are therefore of utmost importance in determining their capacity to build a crime free future, develop their potential, and contribute to society. This conclusion has not only been reached by T2A, but also by the House of Commons Justice Select Committee, by Lord Toby Harris in his review of self-inflicted deaths of young adults in prison custody and David Lammy MP in his review of the treatment of and outcomes for BAME individuals in the justice system.

Criminal behaviour typically decelerates rapidly in the early 20s, importantly including those who had hitherto been persistent offenders. Those who persist in criminal behaviour into adulthood are more likely to have neuropsychological deficits, including cognitive difficulties with thinking, acting, and solving problems, emotional literacy and regulation, learning difficulties and language problems associated with Attention Deficit Hyperactivity Disorder (ADHD), autism, learning and language disorders and head injuries. These deficits, particularly ADHD and traumatic brain injury (TBI, an impairment to the brain from an external mechanical force), are associated with more violent offending. Neuro-disabilities are distinct from mental disorders or psychiatric illnesses or diseases which appear primarily as abnormalities of thought, feeling or behaviour, producing either distress or impairment of function, although they may co-exist. The prevalence of the latter disorders is also thought to be high in young adults and there is some overlap in how they manifest themselves behaviourally.

A series of PQs were recently asked in Parliament about this cohort, the responses to which illustrate how little the government knows about the recent histories or needs of young adults involved in the CJS.

1. **What support do young people need to ensure good mental health and wellbeing and the services and support that are needed to deliver it.**

See Revolving Doors Agency response to this question. We are aware of young adults being taken off CAMHS caseloads on turning 17, rather than up to their 18th birthday and are concerned about transitional planning.

1. **Who should be protecting vulnerable young people from exploitation and violence? What do young people at risk need and how can this be delivered at scale?**

Most young adults, including those who have committed serious and violent offences stop committing crime in their early 20s; this is demonstrated in the government’s own evidence - in the [Serious Violence Strategy](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698009/serious-violence-strategy.pdf) (p.36) - which shows that even for individuals classed as ‘high offending’, the peak age of violent offending is 19 and this declines significantly from age 21 to 24. Given that involvement in the CJS is typically short-lived, criminal justice interventions impact on young adults particularly poorly as they mature, ‘grow out of crime’ and seek to build positive adult identities because current practices are often deficit based and focused on risk management rather than understanding maturity or any vulnerability stemming from childhood trauma.

The international human rights framework is increasingly specifically recognising that young adults should also have specific procedures and mitigation in recognition of their vulnerability. For example,

* Rule 3.3 of the Beijing Rules (1985) provides that “efforts shall also be made to extend the principles embodied in the Rules to young adult offenders”.
* In its recently revised (2019) General Comment on the rights of children in child justice proceedings, the Committee explicitly recognised and approved the application of mitigation and special procedures for young adults.
* The Council of Europe has also recognised the principle of treating young adults differently. Rule 11 of the 2008 Recommendation states that “the extended transition to adulthood”, which should make it “possible for young adults under the age of 21 to be treated in a way comparable to juveniles and to be subject to the same interventions”.
* Similarly, the European Rules for Juvenile Offenders Subject to Sanctions or Measures state in Basic Rule No. 17 that “young adult offenders may, where appropriate, be regarded as juveniles and dealt with accordingly”.

T2A considers that it is important for policy and practice for young adults to avoid reinforcing involvement in the CJS so as to facilitate a shift to a positive, “pro-social”, identity through a practice paradigm that looks to create a shift in the way that a young person sees themselves, from an identity that promotes offending to one that promotes a positive contribution to society. The Beyond Youth Custody programme, shows the importance of agencies providing both structural and personal support to children and young adults. This assists in their development of a positive identity and the creation of a new narrative for how they relate to others. Young people should also be recognised as the central agent in their own rehabilitation.

Given young adult offenders’ complex needs and developing maturity and the impact of criminal records on future life chances, enabling young adults to form non-criminal identities following their involvement in the CJS will require a change in the treatment of their criminal records. An urgent priority should be to address deficits in the regime for the disclosure of criminal records for young adults, which can act as a significant barrier to employment at a time when they are seeking to establish themselves independently and form non-criminal identities. Stable employment is a key aspect of this. David Lammy advocated a process for expunging records similar to the system for “sealing” criminal records that operates in Massachusetts, USA. Under this, a judge or a body like the Parole Board could decide on applications for records to be sealed, with a presumption that favourable consideration would be given to those who committed crimes as children or young adults who can demonstrate change since their conviction.

1. **How can the CJS work more effectively to improve outcomes for vulnerable young people?**

While the Commission's focus is predominantly on children, without significant change in thinking about the treatment of young adults, there is a real risk that that positive work that work done in youth justice system will be undone by the cliff edge in the change in how people are treated once they become 18. There is growing evidence about the kinds of approaches which are needed to promote desistance from crime by both children and young adults. The focus should be on developing a stable, pro-social identity; building resistance to peer influence; developing self-sufficiency and independence; increasing future orientation; and strengthening bonds with family and other close relationships.

T2A welcomes the recent significant shift in understanding of the nature of child criminal exploitation and its role in the commission of drug related and other violent offences. It should be borne in mind that some young adults involved in such offending may not be significantly more mature than under 18s who may be more likely to be considered vulnerable (or indeed victims of modern slavery under s.45 of the Modern Slavery Act 2015) by virtue of their age. In addition, young adults may themselves have been exploited before this became a policy priority and may not now have reached the current position they occupy within the gangs or drugs supply chains had they been identified as having been exploited at a younger age.

***Young adult courts***

The Centre for Justice Innovation (CJI) [found](https://justiceinnovation.org/sites/default/files/media/documents/2019-03/cji_a-fairer-way_digital.pdf) that young peoples’ perception of their sentence has the largest influence on their views of the overall legitimacy of the justice system, even when controlling for the outcome of their case. CJI also examined for T2A the feasibility of dedicated courts delivering distinct arrangements for young adults without legislative change. They proposed that:

* All young adult cases could be allocated to specialist youth magistrates and judges who currently deal with 10 to 17-year olds and who are already eligible to hear adult cases.
* These courts could apply existing adult legislation but would receive pre-sentence reports with additional focus on levels of maturity and information about the context of the offence.
* The principles of ‘procedural fairness’ would be applied and sentencers would be made aware of disposals locally that would suit young adults (such as Attendance Centre Requirements, Intensive Community Orders, and involvement of mentors alongside supervision).

We advocate the piloting of young adult courts which have been adopted in some US states. In other jurisdictions, notably Germany, young adults can be sentenced either in the youth or the adult system in accordance with their maturity.

1. **The Commission on Young Lives will design a national strategy to prevent crisis and help young people to succeed. We want to learn more about the systemic issues that drive risk and what you think can be done to reform the system nationally and locally.**

T2A is very concerned by the growing disproportionality of Black, Asian or minority ethnic young adults in the CJS which appears systemic. These disparities have continued to increase as consecutive governments have failed to hear the lessons from several reviews regarding the CJS—the Lammy Review, the Young Review, the Macpherson Review in particular—where potential reasons for racial disparities have been explored and the need for more systematic research to understand the causes has been identified. Research on young adults as part of the T2A programme has contributed to this evidence and we recommend that the Commission reviews our publications. These include:

• Baroness Lola Young of Hornsey’s research on how to improve outcomes for young black and/or Muslim men in the CJS, known as the [Young Review](https://www.equalcjs.org.uk/sites/default/files/articles/clinks_young-review_report_dec2014.pdf).

• Maslaha‘s [research](https://t2a.org.uk/wp-content/uploads/2016/03/Young_Muslims_on_Trial.pdf) on the impact of Islamophobia on criminal justice decision making

• Leaders Unlocked’s [report](http://leaders-unlocked.org/luwp/wp-content/uploads/2019/08/Race_criminalJusticeReport_v6-1.pdf) based on interviews with Black, Asian or minority ethnic young adults on their experiences of engagement with the CJS

• Revolving Doors Agency’s work on young adults in the revolving door of the CJS, including a briefing on [Racial bias](http://www.revolving-doors.org.uk/file/2484/download?token=If0mA6Ox). For example, they found that Black young adults are more likely to be pulled into the revolving door of the CJS than any other ethnic group but highlights gaps in the data which make it challenging to understand their trajectories.

David Lammy MP called on the government to “explain or reform” the known disproportionalities and we have since seen neither being done adequately. Sadly, there are examples in which the opposite has happened, and the effect of recent changes has been to “ignore and deepen” disparities. Of particular importance for the Commission is the need to understand the profound implications of encounters with the CJS on the development of identity which is particularly crucial in child- and young adulthood for preventing future engagement in it. BAME young adults find that they are perceived through a narrow lens as a perpetrator and can find it challenging to move on from their offence and rebuild their lives. In 2014, Baroness Young highlighted the significance of the ways in which young black and/or Muslim men experience and perceive the intensity of negative stereotyping and its impact on outcomes for these individuals and identified that this is yet to be fully grasped by criminal justice professionals. T2A’s recent work with Leaders Unlocked, Maslaha and Revolving Doors Agency demonstrates that seven years later, this remains the case. Racialised stereotyping has a profound impact on young people in terms of the way they and their communities were perceived and the effect of such attitudes on their own perceptions and behaviour.

Until this is addressed the criminal justice system cannot have the legitimacy required to function effectively for every citizen, no matter what their race, ethnicity or age. Campaigns or creative projects for magistrates, probation staff and the police are needed to shed light on the daily lives of Muslim, Black and other ethnic minority communities. This is different to diversity training and would involve understanding the lived experience of children and young adults from religious and racially minoritised communities.

1. **The Commission aims to address both costs and value for money. We want to bring together work that has been done on how prevention and early intervention be valued in terms of a sustainable outcome, as well as make compelling arguments for where additional investment is most needed and possible routes to that investment.**

The T2A Alliance agrees that it is important that work on prevention and early intervention is valued and that additional investment is made where it would have greatest effect. Investment in cost-benefit research with respect to young adults should be a greater priority. [Research](https://barrowcadbury.org.uk/wp-content/uploads/2011/01/Matrix_Economic_analysis-T2A-2009.pdf) for T2A demonstrates that investment in more positive and tailored approaches to young adults would produce savings in respect of lower reoffending and resulting costs to criminal justice agencies which have been calculated as savings of £33 million over two Parliaments. Given the very poor outcomes of imprisonment in relation to mental health, and employability, more constructive and effective diversionary approaches are likely to yield greater savings in terms of lifetime demands made on health and social services.

Investing in measures which improve the process of desistance from crime are also likely to have the support of many victims of crime. Evidence suggests that in cases of low-level offending, they can be more satisfied with out of court disposals than with court processing. Victims are also broadly open to the use of community sentences and the principles that underpin them. Many want more effective measures that support desistance more effectively than the current system whose outcomes are very poor.