

CONSULTATION ON DRAFT 'TRANSITION OF YOUNG PEOPLE FROM YOUTH TO ADULT CUSTODY' POLICY FRAMEWORK

FEEDBACK FORM

**TO BE RETURNED TO YCSframeworkengagement@justice.gov.uk
BY 13 FEBRUARY 2019**

Stakeholder Name	Transition to Adulthood (T2A) Alliance
Name of person completing this form	Mark Day
Email of person completing this form	mark.day@prisonreformtrust.org.uk
Date Feedback Form Returned	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, which relate to each section of the draft policy framework. A final question allows you to offer any additional comments you may wish to make.

Section 1- Purpose

Please provide feedback on the Purpose section below

About T2A

The Transition to Adulthood (T2A) Alliance evidences and promotes effective approaches for young adults (18-25) throughout the criminal justice process. It is an alliance of 16 leading criminal justice, health and youth organisations: Addaction, Care Leavers' Association, Black Training and Enterprise Group, Catch22, Centre for Crime and Justice Studies, Clinks, Criminal Justice Alliance, the Howard League for Penal Reform, Nacro, The Prince's Trust, Prison Reform Trust, The Restorative Justice Council, Revolving Doors, Together for Mental Wellbeing, The Young Foundation, and Young Minds. T2A is convened and funded by the Barrow Cadbury Trust. T2A has contributed to positive change in policy and practice and at central and local levels, and its evidence has informed service redesign and delivery nationally and internationally. These include welcome changes to recognise maturity in sentencing and CPS guidance, the development of a transitions framework for adult and youth justice services by the Youth Justice Board and HM Prisons and Probation Service, and consultation on the development of a young adults operating model by HM Prison and Probation Service. T2A's work has helped to promote the development of young adult-specific projects and approaches in a growing number of devolved police and crime commissioner and probation areas. T2A and its members have helped to initiate and provide substantive evidence for Parliamentary inquiries into the treatment and conditions of young adults in custody, including the Young Review, the Harris Review and the Justice Committee's inquiry on young adults.

We welcome the opportunity to respond to the YCS consultation on the draft transitions framework. We fully endorse the detailed submission to this consultation made by the Howard League for Penal Reform. Our points below highlight shared areas of particular concern or additional points not included in the Howard League submission.

Purpose section

1.1 We welcome the recognition of the significance of the transfer process for young people and its potential to increase vulnerability. This section should include a clear statement of the importance of taking account of maturity and welfare needs in any decision to transfer a young person. It is now well established that young adults are typically maturing until their mid-20s. Many of the vulnerabilities of childhood can persist well into young adulthood. A large number of young adults have mental health needs, neuro-cognitive disabilities and histories of placements in care. The problems associated with these vulnerabilities can be made more acute by a change in custodial placement, as a result of the withdrawal of youth justice and child social care services and the disruption to a young persons life which a transfer entails. Therefore, any decision to transfer a young person must take full account of the welfare needs and circumstances of the individual. Youth Custody Services have discretion over whether or not to transfer a young person into adult custody. Staff should be encouraged to exercise this discretion where appropriate and this should be made clear in the opening section of the document.

1.2. The stated purpose of the policy framework is to “clarify processes, and promote consistency of transitional services across custodial establishments in England and Wales.” While consistency is important, as the Howard League has highlighted, consistent practice is not an end in itself. Practice needs to be underpinned by a common understanding of the legal requirements to meet the needs of the child and young adult. Furthermore, consistency should not be pursued at the expense of the flexible approach required to respond to individual need. We believe it is important for the draft framework to retain capacity for staff to exercise discretion in the decision to transfer a young person.

We note a difference in emphasis between this framework and the recently revised YJB national standards (standard 5: transitions) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780504/Standards_for_children_in_youth_justice_services_2019.doc.pdf The YJB standard requires “local systems are in place that demonstrate flexibility and capacity for continuity in assessment”. The requirement to “demonstrate flexibility” is seemingly at odds with the stated aim of the draft policy framework to “promote consistency”. To avoid confusion, it is important to clarify the relationship between these two documents and other documents relevant to transfers (eg HMPPS young adults model of operational delivery). It is also important to clarify the relative importance given to promoting consistency while at the same time ensuring sufficient flexibility to respond to individual need.

1.3. We share the concerns raised by the Howard League and the Standing Committee for Youth Justice regarding the use of language in this paragraph and throughout the subsequent document. In particular, the use of the term “offender” is counter to the stated aim of the policy to facilitate a shift to a “pro-social identity” (2.10). Throughout the document, the term for a person under the age of 18 should be “child” and over 18 “young adult”.

Section 2 - Outcomes

Please provide feedback on the Outcomes section below

We are largely supportive of the outcomes included in section 2, but believe they could be strengthened to ensure that specified outcomes are met. In particular, as the Howard League has highlighted, there is nothing to ensure that the engagement of the young person in transition planning is meaningful. Furthermore, no mention is made of the

importance, where appropriate, of involving parents or carers in transition planning (although they are mentioned in para 3.11). Overall, there should be a greater focus on ensuring positive outcomes for the individual rather than the efficiency and effectiveness of the transitions process itself. This should include reference to non-criminal justice agencies involved in the transfer process, including health, social care and education.

Section 3 – Requirements

Please provide feedback on the Requirements section below

Different types of transition

3.1. We share the serious concerns raised by the Howard League and the Standing Committee for Youth Justice regarding this section. In particular:

- Children should not be placed in an adult establishment. “Early transition” would seem to be in breach of our international treaty obligations
- The term “automatic or standard transition” is misleading. As a matter of law there is a presumption that young people serving a DTO are NOT transferred. Furthermore, transfer should not be automatic if there are good reasons for the young person to remain in the youth estate, for instance, a pending parole hearing or completion of a work or educational placement.
- Likewise, discretionary transition is an exception to the legal presumption that young people serving a DTO are NOT transferred. It should not be included as a category in itself, and certainly not without the DTO presumption against transfer being included as a separate and default category.

These categories should be completely revised.

Under-18 establishments

3.4 The requirement that young people eligible for automatic or standard transfer progress from the youth estate within one month of their 18th birthday is arbitrary and conflicts with the legal requirement to consider the needs of the young person. This is an unnecessary and potentially damaging restriction on the appropriate exercise of staff discretion. It should be removed.

This section makes no mention of the need for the early identification of children who are likely to be transferred, so that any potential disruption to the young person can be minimised; for instance by specifying that sentence plans need to take account of future transfer to adult services where appropriate.

Adult/young adult establishments

3.23-25 We agree with the Standing Committee for Youth Justice that the “appropriate member of staff” specified in these paragraphs should be the same person, to ensure continuity of contact and engagement with the young person.

3.24. A maximum limit of 72 hours for an appropriate member of staff to meet with the young person is too long given the difficulties associated with the process of transfer for the young person and the increased risk of self-harm and self-inflicted death associated with the first days in custody. This should be revised to a maximum limit of 24 hours.

3.28. We agree with the Howard League that care leavers should be permitted to have their personal advisor present at sentence planning meetings on an ongoing basis and not just at the first meeting.

Other agencies and monitoring requirements

Requirements including in section 3 make no mention of the importance of effective cooperation between justice and other agencies including health, social care, education and employment. It also contains no requirements regarding arrangements for monitoring outcomes or overseeing the efficiency and effectiveness of the transition process.

The Criminal Justice Joint Inspectorate 2016 follow up report on transition arrangements made a number of recommendations in these areas. These should be included in the requirements section of the policy framework. The report “recommended that Youth Offending Team Management Boards, Probation Trusts and custodial establishments, in conjunction with education, training and employment, health and other providers of interventions, should ensure that:

- the effectiveness of local arrangements for the transfer of young people from youth based to adult based services, and retention of young adults in youth-based services, is monitored and kept under review
- sentence plans in Youth Offending Teams and the young person’s secure estate take account of future transfer to adult services where appropriate, and plans in Probation Trusts and the adult custodial estate take account of information from youth based services, to ensure that outstanding interventions are implemented
- decisions to transfer young people to adult services or to retain young adults in youth based services are recorded in the case record and take into account the views of young people and what work needs to be undertaken to meet the aims of the sentence, to address likelihood of reoffending and risk of harm to others, and to manage vulnerability
- young people are thoroughly prepared for transfer to adult services
- notifications of transfer, and all essential advance information, are sent to Probation Trusts and adult establishments in sufficient time to ensure continuity of delivery of interventions
- all intervention providers (including health and education, training and employment providers) are informed of transfers to Probation Trusts and adult establishments in advance and involved appropriately in case transfer meetings to ensure continuity of delivery
- parents/carers are involved, where appropriate, in discussions about transfer and in case transfer meetings where it is likely to aid the young person’s progress and engagement
- staff in youth based and adult based services receive sufficient information and training about the work of each other’s services to enable them to prepare young people for transfer to adult services and to work effectively with transferred cases.”

Section 4 – Constraints

Please provide feedback on the Constraints section below

4.1 We object to the framing of this section which places the primacy of a default process over consideration of the needs of the young person. Factors such as the young persons date of release, their stage in the parole process, participation in education, work or offending behaviour programmes are not “constraints” but essential issues which need to be considered as part of any decision to transfer a young person. Overall, the exercise of discretion by the staff over the decision whether or not to transfer a young person needs to be viewed a lot more positively. In addition, this section contains no mention of the legal presumption that young people serving a DTO are NOT transferred. It should also be expanded to include consideration of welfare needs, including health or bereavement.

Section 5 – Guidance (Sections A – G)

Please provide feedback on the Guidance section below (Sections A – G)

Much of the information included in this section is vital to any effective transitions process and should be included in the requirements section, not merely as guidance. This is particularly important for those groups with protected characteristics under the Equality Act, or children subject to separate welfare and safeguarding requirements.

A. Transition support in under-18 establishments

The important information in this section should be requirements of any effective transfer process for children.

B. Female transitions

2. This is a requirement – it cannot be “guidance” to designate responsibility for transition arrangements to STC governors or the YCS placement team. Also, how will responsibility be decided between the two?

3. We welcome the recognition of the particular difficulties experienced by young women in the transition process. Again, it is unclear why this section is not included in the requirements section of the framework.

C. Transition support in adult / young adult establishments

We welcome the recognition in this section of the distinct needs of young adults and the importance of taking account of maturity in transition support in adult / young adult establishments. This information should be highlighted much more forcefully and earlier on in the document and should be included as requirements of the policy framework and not merely as guidance.

D. Role of the YOT in managing transitions

This section is expressed as requirements and not guidance (“The YOT will ...” etc). It is also unclear how the requirements stated in this section dovetail with the YJB national standard 5 on transition arrangements.

F. Care Leavers

We welcome the addition of this section. However, care leavers have statutory entitlements to support, and therefore it is inappropriate for this information to be included in the guidance section of the framework. Meeting these entitlements is a statutory obligation and should be a requirement of the framework. In addition, we are unclear whether the document is up to date and takes account of the additional entitlements for care leavers in the Care Act 2014.

Annexes A - C

Please provide feedback on Annexes A - C below

Do you have any other comments about the draft 'Transition of Young People from Youth to Adult Custody' Policy Framework that you would like to be taken into account?

Yes No

If you have answered Yes, please provide feedback below