

T2A response to Justice Committee inquiry on Prison Governance

We thank the Justice Select Committee for the opportunity to respond to this timely inquiry. As the new Minister of State, Rt hon Robert Buckland QC; Director of Her Majesty's Prison and Probation Service (HMPPS); Dr Jo Farrar, and the Director General Policy, Communications and Analysis Group at the Ministry of Justice, Mark Sweeney, find their feet and have a chance to reflect on their first few months in office, an important consideration for them will be to ensure that prison governance arrangements, and the practices that stems from them, deliver the best possible outcomes for those held in the prison system.

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.

In our submission we answer selected questions from the terms of reference and illustrate our points in relation to the treatment of young adults in the criminal justice system. The Justice Select Committee itself has highlighted the importance of strong governance for this cohort:

Dealing effectively with young adults while the brain is still developing is crucial for them in making successful transitions to a crime-free adulthood. They typically commit a high volume of crimes and have high rates of re-offending and breach, yet they are the most likely age group to stop offending as they 'grow out of crime'. Flawed interventions that do not recognise young adults' maturity can slow desistance and extend the period of involvement in the system. (JSC 2016, para 24)

The particular importance of getting this right for young adults has been known to the Prison Service for a long time. In 1974, the Advisory Council on the Penal System stated that "a special concentration of public effort upon this group of young adults, who are in danger of going on to long and costly criminal careers, is a sensible investment by society at a time when resources, both human and material, are too scarce to allow a similar degree of attention to be paid to all age groups".ⁱ

Concerted action on this important issue is long overdue. Recent changes in oversight represent an opportunity to review the evidence and re-consider the implications for strategy and future governance arrangements.

Background

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. Many of these issues are a result of systemic issues which arise before engagement with the justice system and which HMPPS should be instrumental in seeking to fix, cross-government.

The last decade has seen significant changes to the management of young adults in custody, implemented by the National Offender Management Service (NOMS) and now HMPPS, 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, HM Inspectorate of Prisons annual report 2017-2018 highlighted that time spent unlocked was particularly poor for young adults in prison. 38% said they spent less than two hours a day out of their cell.

- 1. What should the role of a prison governor be, what should they be responsible for and to whom are they accountable?**
 - a. What changes have been made since the Government’s White Paper ‘Prison Safety and Reform’ and what have been the challenges and opportunities in implementing these?**
 - b. Do prison governors and future governors receive sufficient training and support and what more could be done to improve this, particularly in relation to diversity issues?**

The role of a prison governor

HMP YOI Swinfen Hall began holding young adult prisoners up to the age of 25 in the mid-2000s when the then governor persuaded the Prison Service that the emerging evidence on the development of maturity warranted a different approach, an early recognition of ideas subsequently developed by T2A. Almost 15 years later, there is no conclusive evidence of the benefits, or otherwise, of that approach or of other models of holding young adults in custody in England and Wales. This raises questions for the Prison Service about prison governance, including:

- how it facilitates or hinders change, and how it learns from innovations in practice and adopts these more widely; and,
- how the right balance is struck between matters which should be driven centrally and those which should be driven bottom-up.

A key question for the new Director should be how the centre best empowers governors to innovate and how the benefits of innovation should be determined and shared.

Following the Justice Committee's inquiries on the treatment of young adults in 2017 and 2018, the Government accepted that 18 to 24-year olds in the criminal justice system are a distinct group. HMPPS has subsequently focused on documenting developing practices in individual prisons rather than taking the broader strategic approach proposed by the Committee. Underlying this has been an expectation that governors will implement change based on practical guidance, in the absence of central direction and strategic oversight of establishments holding young adults.

We share Lord Harris of Haringey's view, expressed in his Review, that the key factor in ensuring that effective prison regimes are delivered for young adults is strong leadership. He said:

“for prisoners to be safer and more effectively engaged in their rehabilitative process, there needs to be stronger leadership and commitment to that purpose shown by Ministers, NOMS senior management, and prison Governors. The responsibility for ensuring that young adults in custody are rehabilitated and their well-being is delivered ultimately rests with Ministers and with NOMS who need to ensure that this is a priority for all prisons and that prisons are resourced adequately to deliver it. Within an individual establishment the Governor needs to provide effective leadership that prioritises that goal.”ⁱⁱ

It is undoubtedly vital that individual governors recognise the specific characteristics of young adults and ensure that sufficient regard is paid to their distinctive needs in the running of their establishment. Nevertheless, as the Committee documented, practices for young adults which take account of neuroscientific evidence have evolved at a very slow pace in the absence of strong leadership on the matter. The challenges for governors of dealing with prisoners of widely varying age was highlighted by HM Inspectorate of Prisons in their 2018 report on HMP Isis, a prison which until recently was dedicated to young adults up to the age of 30. The Inspectorate noted that the diverse population at Isis demands more flexibility in the application of policy to ensure that difference is recognised and understood. They were particularly concerned about adverse outcomes for young prisoners and concluded that the establishment should have a greater understanding of the developmental needs of young people still going through the process of maturation and dedicate resources to ensuring that their needs were met.ⁱⁱⁱ

The Committee found during its *Prison Population 2022: planning for the future* inquiry that the governor empowerment agenda was proceeding without there being sufficient resources or freedom for governors to make different decisions about how to spend their budgets and to innovate. We encourage the Committee to explore whether the existing arrangements for collecting evidence, sharing good practice are successful and what governance arrangements would facilitate wider replication of effective practices introduced by governors to increase the pace at which the Service evolves. The locus of training budgets and expectations attached to those budgets in terms of what should be provided centrally vs. locally should also be reviewed as part of this inquiry.

Challenges and opportunities of implementing the Prison Safety and Reform White Paper

Alongside the emphasis on governor empowerment in the White Paper Prison Safety and Reform, the then Government made a number of points about young adults. It:

- stated that there was a “fresh imperative” to assess their treatment following the 2015 review by Lord Harris and the 2016 Justice Select Committee report;
- said that it would consider the feasibility of developing specific roles for working with cohorts of prisoners with identified needs; and,
- acknowledged the need to take a more coherent approach to how governors manage young adults.

The Committee’s second report in 2018 highlights the challenges that there have been in implementing this approach. As the Committee identified in its report *Prison population 2022: planning for the future* governors are dealing with a range of competing expectations stemming from instructions, guidance and strategies which they find challenging to implement. HMPPS has placed emphasis on simplifying the instructions issued to governors by creating Policy Frameworks and Models of Operational Delivery. We discuss this further below.

Governance

The Committee found governance arrangements for young adults “unsatisfactory”. In both the Ministry and NOMS, now HMPPS, the long-standing approach has been for a single person with multiple portfolios to address the distinct needs of key cohorts, some of which are, or should be, other major priorities, including the important work to address disproportionality experienced by BAME individuals in the criminal justice system. Inevitably, this means that there is not a sufficient focus on driving forward change. More recently, in addition to senior Young Adult Leads being appointed for both prison and probation, working groups for each service have been established which include representation from MoJ policy and evidence teams and there is greater joint working between the Prison Service and National Probation Service. This is a positive step towards effecting change nationally. However the HMPPS lead for young adult prisons is Alan Scott, Executive Director, Public Prisons North. His enthusiasm and commitment are clear to us, it is not feasible that he could engage effectively with the numerous establishments where young adults are held in addition to the northern prisons he is responsible for overseeing. Ambition is rarely enough to change practice. We understand that he has put in place a small team (with links to MOJ officials leading in this area) and plans to reinstate the young adults’ governors board. As part of this inquiry and to follow-up its previous work on young adults, the Committee could examine the impact of these new governance arrangements on practice and outcomes for this cohort.

The challenges of driving forward work on young adults in the absence of clear Ministerial accountability were reflected in the JSC’s efforts to secure evidence on the Ministry’s progress on the recommendations its first report. Different Ministers hold responsibility for under 18s and over 18s in the criminal justice system. Dr Phillip Lee, who had responsibility for the former, also held briefs for offender health, the Lammy Review, and female offenders. While it was understandable that he was not familiar with the specifics of young adults’ treatment in the justice system, he seemingly had not considered the distinct needs

of young adults in relation to his health or Lammy briefs. It is not acceptable that important issues are overlooked because they fall between Ministerial briefs. Age is a protected characteristic under the Equality Act which should be the responsibility for all MOJ Ministers. At a prison level, there is anecdotal evidence that where governors chair equalities meetings there tends to be better results.

Training and support

The development of a new prison leadership programme provides an opportunity to ensure that all governors receive training on brain development, maturity and the impact on young adult behaviour. In addition, their leadership training should include a component which encourages them to innovate and teaches them of the importance of testing and evaluating their practices in a robust manner. This need not entail costly external evaluations, rather the implementation of a data-driven approach at prison level to examine how well they are meeting the needs of their population. Age, maturity and the effective management of young adults should also form part of training for Unlocked Graduates, who are being trained as potential future prison leaders.

2. How should the Ministry of Justice and HM Prisons and Probation Service (HMPPS) provide effective oversight of prisons?

- a. To what extent is the split of responsibilities between HMPPS and the Ministry clear and coherent?**
- b. How is the performance of prisons monitored and should other factors be taken into account? What use is made of data and is there a sufficient focus on outcomes for prisoners across the estate?**

Our experience and the Committee's work illustrates how the Prison Service is slow to adapt to emerging intelligence and academic research, signalling a need for greater integration between research and practice which should be reflected in governance arrangements. Without consideration of building the evidence base being at the forefront of delivery, it is challenging for the Service to develop and change effectively or nimbly. There is not sufficient transparency about how policies and programmes impact on outcomes and there is a lack of emphasis on changing the lives of those held in custody in monitoring frameworks.

As the Committee found in its inquiry Prison Population 2022, HMPPS does not collect sufficient data on the needs of those held in custodial establishments. This reduces the capacity of the Service and individual governors to commission services to meet needs, which may shift over time. For example, despite falling numbers of under 18s in the youth prison system, the Youth Custodial Service has recognised it needed to improve its staff to young people ratio to reflect the greater needs of the children they hold.

More widely, the youth justice system has placed an emphasis on monitoring outcomes, identifying outliers and targeting centrally co-ordinated activities based on those needs. This has enabled a targeted approach to be taken to reducing demand in the youth justice system, for example, in relation to understanding and driving down reducing reoffending rates. The Committee's recommendations related to plugging gaps in data and publishing existing data about young adults more transparently have not been fully addressed.

When devising and implementing new programmes, there is a lack of proper evaluation of HMPPS practice to understand whether it is having the desired effect on outcomes. The offending behaviour programme Identity Matters was developed for young adults to address gang or group-related violent offending behaviour. No data are available on outcomes, five years after the pilot. Testing the programme was referred to as an action under HM Government's Strategy for Ending Gang and Youth Violence in 2013 which stated that if the pilots were evaluated positively and approved for use, the programme should be made available for commissioning within custody.^{iv} The Committee found that in 2018 the programme was still being piloted and HMPPS was unable to provide any data on outcomes for those it had been delivered to. An evaluation (of the process of delivery rather than its impact) remained 'underway'.

Perhaps this is understandable for a small-scale programme, however, another example is the implementation of the Offender Management in Custody (OMiC) model, a major programme being implemented across the prison estate. The Ministry told the Committee that OMiC would provide enhanced support for young adult prisoners and care leavers. There is anecdotal evidence that this is not the case, but there is no evaluation or transparency of outcomes to assess whether it is being implemented effectively.

c. Are underperforming prisons properly supported and how is good practice shared between prisons?

Young adult establishments are typically underperforming prisons, with some of the highest levels of violence and lowest levels of purposeful activity. The Chief Inspector of Prisons documented evidence of fatalist thinking in his report on HMYOI Aylesbury with regard to efforts to reduce levels of serious violence.^v It is important that governors are supported to find ways of addressing serious violence rather than keeping young adults locked up or shifting disruptive prisoners to another establishment to become another governor's problem. This will involve a shift in thinking and creating cultural change which must be driven from the top of the organisation. HMPPS should understand more fully why these establishments are underperforming and how that relates to the developmental status of the population they hold and how they are managed.

The DYOI is an important legislative safeguard for young adults (aged 18-20) sentenced to custody which was specifically designed to ensure that young adults were managed within a distinct prison regime compared to that for older adults. Over the last decade, however, this distinct approach has been eroded by a series of operational changes, 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 held in a variety of establishments, only three of which are dedicated YOIs. The JSC described the government's approach as de facto policy and questioned the evidence base underpinning this which it recommended HMPPS should resolve. This included, most importantly, robustly testing and evaluating the outcomes of different ways of holding young adults up to the age of 25 in custodial institutions.

The government's response has been to commission an examination of good practice in dual-designated institutions and share knowledge, accessible via the intranet. T2A has its own collection of evidence-based research on young adults. We have also provided HMPPS with resources to create and maintain regional practice development groups. While welcome, these steps do not address serious concerns regarding the potential impact of

mixing on safety, rehabilitation and well-being on outcomes, either for young adults or for the older prisoners they are mixed with. There are promising examples of what can be achieved in small residential units, for example the Development and Progression Unit (DPU) at HMP YOI Brinsford for young adults at risk of self-harm and other complex needs.^{vi} Nevertheless, the establishment of such units across the estate should be part of a wider strategic approach towards young adults, rather than left to individual governors.

Projects/programmes are implemented without a clear evidence base and policy/practice questions arising from research are seemingly not acted upon. There are examples of Ministry of Justice research seemingly being conducted at a distance from operational policy. For example, Hillier and Mews' research on the relative impact of community sentences and short-prison sentences found that using short-term custody rather than court orders was least effective in reducing reoffending for the youngest age group (18–20) and most effective for those aged 21 to 29.^{vii} Despite this raising clear questions about what is different about practice towards each of these age cohorts, to our knowledge this has not been followed up.

Models of Operational Delivery

HMPPS is in the process of devising and publishing 'Models of Operational Delivery (MOD)' which include good practice for groups of prisoners with specific need, including young adults. The Ministry of Justice told the JSC, in its response to the second report, that the MOD for young adults, which was published late last year, is intended better to equip governors holding them cater for this group. This provides, for the first time, an analysis of the evidence and challenges facing young adults and potential solutions, including current examples of good practice in prisons.

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 would be an important step in keeping them at the forefront of governor's minds and tying together otherwise separate pieces of guidance. It also assumes that governors will have the resources to enable them to adopt new approaches, a significant challenge in the current prison environment.

d. Is there effective collaboration between prison, probation and other community services and what are the challenges to improving this?

One of the T2A Alliance's key recommendations is that improvements should be made in transitional arrangements and communication between agencies working with young adults, with particular focus on youth offending teams and probation services. At present, as young adults move from the youth to the adult criminal justice system and from youth to adult services in the community, the level of support typically drops dramatically, while the suitability of services may be reduced.

Every year there are over 2,000 movements of young people under 18 across services within the community, or in custody, or into the adult system. A thematic review by HM Inspectorate of Probation in early 2016 concluded that the Transforming Rehabilitation

reforms have had a detrimental impact on the quality and consistency of the transfer process. The JSC concluded in its first report that there was relatively strong oversight of the process by YJB and NPS, noting the creation of the National Young Offender Governance Board with representatives from each. Nevertheless, the role of the Prison Service on the Board in relation to transfers between youth and adult custodial establishments is not clear and in the absence of transparent monitoring of outcomes for young people transferred, it is not possible to determine the effect of these governance arrangements.

There is some more recent evidence to suggest that communications between YJB and HMPPS could be strengthened. YJB has recently consulted on a draft Transition of Young People from Youth to Adult Custody Policy Framework, the stated purpose of which is to “clarify processes and promote consistency of transitional services across custodial establishments in England and Wales.” We found that this Policy Framework was not referred to in the draft Model of Operational Delivery and vice versa.

ⁱ Advisory Council on the Penal System, *Young Adult Offenders*, HMSO: 1974, p.3

ⁱⁱ Lord Harris of Haringey, [Changing Prisons, Changing Lives](#), July 2015

ⁱⁱⁱ HM Inspectorate of Prisons, [Report on an unannounced inspection of HMP/YOI Isis 23 July–2 August 2018](#), September 2018

^{iv} HM Government, [Ending Gang and Youth Violence Annual Report](#), 2013

^v HM Inspectorate of Prisons, [Report on an unannounced inspection of HM YOI Aylesbury 4–5, 24–28 April 2017](#), June 2017

^{vi} HMPPS, [HMP YOI Brinsford Action Plan](#), 9 July 2018

^{vii} Hillier, J. and Mews, A [Do offender characteristics affect the impact of short custodial sentences and court orders on reoffending?](#), Ministry of Justice Analytical Services, 2018