



Justice Committee inquiry on Children and Young People in Custody
Transition to Adulthood Alliance written evidence

1. 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. The T2A programme produces and promotes evidence for effective ways of working with young adults who commit crime. T2A's principal aim is that the young adults (who T2A define as those aged 18-25) are subject to a distinct approach at all stages of the criminal justice system, including custody. T2A's evidence base is founded on three main bodies of research: Criminology, Neurology and Psychology. All three fields strongly support the T2A view that young adults are a distinct group with needs that are different both from children under 18 and adults older than 25, underpinned by the unique developmental maturation process that takes place in this age group.
2. T2A has contributed to positive change in policy and practice, 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 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.
3. T2A welcomes the opportunity to respond to the Justice Committee's inquiry and the fact that it has included provision for young adults. In recognition that this inquiry is largely about the treatment of under 18s, we answer below selected questions from the Terms of Reference which are in the remit of the Alliance.
4. T2A considers that it is important for policy and practice for children and young adults to facilitate a shift to a "pro-social identity". Accordingly, we propose to the Committee that during this inquiry they adopt the term "child" for a person under the age of 18 and "young adult" for a person aged 18-24, and avoid the use of the term "offender", and that they encourage HMPPS to adopt the same practice.

The Youth Justice Population and entering the system

How has the young offender population changed and what are the challenges in managing this group?

d) Is the current minimum age of criminal responsibility too low and should it be raised?

5. T2A believes that the age of criminal responsibility is too low and that there should be flexibility in the upper age limit of the youth justice system to reflect a young person's level of maturity. 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. T2A are concerned that the existing legislation neither meets international conventions nor reflects the growing international neuroscientific evidence on brain development and age appropriate criminal justice practice.
6. Existing international conventions refer to both the age of criminal responsibility and the need for flexibility in applying youth justice principles over the age of 18. For example, in January 2019, the UN Committee on the Rights of the Child consulted on revising its General Comment No. 10 (2007) on children's rights in juvenile justice and focused on the minimum age of criminal responsibility and upper age limit of the juvenile justice system (criminal majority), among other priorities. In the UK the upper age is 17. The minimum age of criminal responsibility considered internationally acceptable is now 14 rather than 12. Nevertheless, the UN Committee commends jurisdictions that have a higher minimum age, for instance 15 or 16 years of age. In relation to the upper age limit, in paragraph 46, the UN Committee stated that,
"...reaching 18 years does not mean the end of the juvenile justice specialised measures. The Committee recommends to States parties to ensure that these young persons can continue the completion of the programme or sentence in conditions suited to their age, maturity and needs and are not sent to centres for adults".

The [Beijing Rules](#) set out similar principles. For example, Rule 4 refers to the age of criminal responsibility. While it does not define a lower age, it states "that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity." Rule 3.3 states that "Efforts shall also be made to extend the principles embodied in the Rules to young adult offenders."

7. T2A urges the Committee to examine the extent to which the approach in England and Wales accords with these international standards and the Equality Act protected characteristic of age. Should the Committee recommend legislative change for the treatment of under 18s, this would also provide an opportunity to legislate to ensure that young adults aged up to 25 involved with the criminal justice system are treated as a distinct group, reflecting the Committee's conclusion in its 2016 report [The treatment of young adults in the criminal justice system](#) that

Legislative provision to recognise the developmental status of young adults may be necessary both to demonstrate political courage in prioritising a better and more consistent approach to the treatment of young adults who offend and to provide a statutory underpinning to facilitate the shift required within the range of cross-government agencies that support young adults. (para 148)

T2A is of the view that the continued absence of a systematic approach by the MOJ and HMPPS to this age cohort, along the lines proposed by the Committee in its 2016 and 2018 reports, warrants legislative change.

T2A recommends that the age of criminal responsibility is raised to at least 14 and that at the

same time the government should legislate to provide for flexibility in the upper age limit of the youth justice system to enable youth justice principles to be extended to young adults where warranted by their level of maturity.

Suitability of the Secure Estate

f) Is the use of force in the secure estate proportionate and properly monitored?

8. Prisons dedicated to holding children and young adults have particularly high levels of violence as evidenced by HM Inspectorate of Prisons reports on individual establishments, and across the whole estate young adults are disproportionately involved in violence of problematic behaviours. They spend a longer time on the lower levels of the Incentives and Earned Privileges Scheme (IEP) and many prisons struggle to effect meaningful behaviour change for this cohort with traditional policies and procedures.
9. In T2A's experience, approaches taken towards managing violence for young adults are not always developmentally appropriate. HMIP expects that behaviour management processes are applied proportionately to young adults, yet a disproportionate number of young adults are subject to use of force. While the Committee's focus on use of force is welcome and necessary, T2A recommends that the Committee looks more widely at the disciplinary system as applied to children and young adults, including the IEP scheme and prisoner discipline procedures (adjudications), both of which have recently been reviewed.
10. In relation to IEP scheme, In a recent HMIP [thematic on incentivising and promoting good behaviour with children and young adults](#) the inspectorate highlighted specific concerns regarding the ineffectiveness of existing incentives and sanctions schemes for young adults who display the most challenging behaviour. The Inspectorate found that: the IEP scheme was too punitive, particularly in young adult institutions; review periods were too long and many young adults on the basic regime felt they had nothing to lose by behaving badly; the application of the IEP scheme was inconsistent; sanctions were not properly explained to young people and there was insufficient attention to target-setting and review; and, incentives were not linked to sentence plans with offender managers and caseworkers having little input into review meetings. They noted that schemes which promote and reward good behaviour rather than punish poor behaviour have been shown to be more effective with young adults.

T2A proposes that the Committee revisits the conclusions drawn by the previous Justice Committee in its 2016 report:

The incentives and earned privileges scheme and punitive and restrictive measures to prevent violence, including shockingly long hours of being restricted to cells and high levels of adjudications are short-term means of managing a risky and vulnerable population. Such action does little to address underlying behaviour and is largely ineffective as a means of deterrence. Measures which focus on positive encouragement and which seek to understand the reasons underlying their conduct will be more successful in achieving changes in behaviour.

Whole prison approaches should be developed to reduce victimisation and bullying in prisons through the widespread use of restorative justice and trauma-informed approaches. The IEP scheme should be replaced with a more sophisticated and flexible system of reward and incentives to encourage positive behaviour.

Governors have since been given more freedom by HMPPS to create local IEP schemes, within specified parameters under the [Incentives Policy Framework](#). T2A welcomes the inclusion of procedural justice and positive reinforcement in the Framework which has the potential to improve

the effectiveness of such schemes for young adults. One example of an approach which focuses on rewards is the Respect Reward Programme at HMP YOI Parc.

T2A recommends that HMPPS adopts developmentally appropriate practices under IEP schemes in all prisons holding young adults that take into account evidence from criminology, sociology and psychology about how best to support healthy maturation and the development of pro-social behaviours. T2A proposes that the Committee examines the extent to which the Incentives Policy Framework has impacted on practice and outcomes for young adults, including whether schemes are being devised specifically for that age cohort and how incentives link to sentence plans. HMPPS should also fundamentally review its guidance on discipline for young adults.

g) How does the experience of children and young adults differ across the different types of secure custody and what lessons can be learnt ahead of the opening of the new secure schools?

13. The Committee noted in its predecessor's 2016 report *The treatment of young adults in the criminal justice system* that despite there being similarities in the needs of under 18s and young adults, the policies and structures that apply to children vary greatly from those that apply to young adults. Much of this is determined by legal entitlements and rights. There is a requirement within the United Nations Convention on the Rights of the Child that children and adults will not be held together in custody, for example. Under the legislative framework for children who offend there are distinct governing principles, courts and sentencing regimes. The youth justice system is also better resourced, facilitating smaller caseloads and more intensive interventions from a range of agencies. T2A would like greater clarity on how the differences in resourcing and staffing levels impact on outcomes for children compared to young adults.

14. Prisons have been operating a de facto policy of dispersal for those serving a sentence of detention in a young offender institution (DYOI, a dedicated custodial sentence for 18 to 20-year olds) by designating many institutions as YOIs as well as prisons. This has the effect of mixing under 21s with older adults. T2A directs the Committee to paragraphs 117 to 129 of [their predecessor's report](#) which provides an overview of the different custodial arrangements for young adults (see also paras 54 to 68 plus 42 to 51 in the [2018 report](#)). In that report, the Committee made the following observation:

The detention in a young offender institution (DYOI) sentence was originally conceived to offer extra protection and support to young adults because of their developing maturity. This has been rendered meaningless by the effective lack of differential treatment in the custodial estate. The extent to which the specific needs of young adults can be managed adequately, let alone effectively, in either distinct or mixed institutions is not clear. The Ministry and NOMS have not provided a robust evidential basis for their decisions to close several dedicated institutions. Indeed, we have not seen any evidence that outcomes for young adults under different placement scenarios have been evaluated at all.

Accordingly, the Committee recommended that:

The YOI element of the sentence must be given real meaning through the adoption of a strategic approach to the placement of young adults in appropriate accommodation according to their needs, the options for which are currently unduly narrow, and the development of new initiatives which are more appropriate to their needs. Before this can happen it is imperative that the inexcusable gaps in the research evidence regarding the best strategies for holding young adults in prisons are urgently addressed. This will necessitate the Ministry of Justice, NOMS and prison governors finding means of testing empirically various models of holding young adults, including an examination of the costs and benefits. This should include small dedicated units within prisons holding older adults; a small number of dedicated

institutions; piloting of specialist dedicated officers with smaller caseloads, and enhanced provision of therapeutic support. Where young adults are held in mixed institutions there should be a recognised cap on numbers and benchmarking levels should reflect the need for better ratios of staffing. (para 154)

The Committee returned to the evidence base in its [follow-up report](#) in 2018 and stated:

We note the complexity of determining the relative effectiveness of custodial placements for young men and welcome the Ministry's indication that research will be conducted, which is long overdue. We share our predecessor's grave concern that in the absence of such research existing approaches to holding young adults in custody may be doing more harm than good.

We do not think that the Ministry's plans to gather evidence amounts to the robust research our predecessor concluded was required. The Ministry must set out in its response how it intends to demonstrate definitively that HMPPS's operational practices are appropriate to young adults' development needs and report within the next year.

A matter of concern to us, as it was to our predecessors, is understanding the effectiveness of HMPPS's various approaches to holding young adults in custody. Prisons have been operating a de facto policy of dispersal for those serving a sentence of detention in a young offender institution (DYOI, a dedicated custodial sentence for 18 to 20-year olds) by designating many institutions as YOIs as well as prisons. This has the effect of mixing under 21s with older adults without credible or definitive research on the impact on outcomes of this, either for young adults or for the older prisoners they are mixed with. The Committee concluded that NOMS had neither ensured that mixed establishments have strategies for dealing with young adults, nor addressed the distinct needs of 22 to 25-year olds, resulting in a lack of robust evidence on which to improve outcomes. It recommended that the Government conduct research on the subject.

15. T2A suggests that the Committee revisits these findings. T2A is not aware of any subsequent substantive further research being undertaken by HMPPS; the Committee may wish to enquire about this. T2A continues to hold the view that the best outcomes for young adults in custody will be achieved by HMPPS taking a distinct approach which reflects their developmental status. All young adults ordered to serve a custodial sentence aged 18-25 should be held in distinct young adult establishments. In the first instance, 18-20s should be sentenced to a properly resourced DYOI, with 21-25 year olds serving their sentences in this distinct regime. In due course, legislative changes would extend the remit of the DYOI up to 25. T2A's strong preference is that young adults should be treated as a distinct group from both children and older adults. Alternative approaches are found currently in other parts of Europe. One is to extend the remit of the youth justice system to 25 (as in the Netherlands). Another option would be to allow the courts to apply juvenile or adult law to young adults on a case by case basis depending on needs and levels of maturity (as in Germany).
16. In the absence of any further evidence about the consequences for young adults' safety and wellbeing and long-term outcomes, T2A continues to have concerns regarding the impact of the mixing of young adults with adults in dual-designated establishments on the capacity of prisons to provide a distinct regime for young adults.
17. A key factor in delivering effective prison regimes for young adults is strong leadership. T2A has been encouraged by the creation of a young adult lead in the prison service which is part of the work that HMPPS is doing to develop a [rehabilitative culture in prisons](#). The Ministry of Justice seconded a representative of the VCS, Alison Thorne, to conduct a stocktake of practice with young adults in custody. Regional practice groups have also been established.

18. T2A is of the view that the government should consider again the recommendation that a distinct unit is established in the Ministry of Justice that is responsible for young adults aged up to 25. The large size of the young adult population was cited by HMPPS as one of the key reasons for not adopting a more distinct approach towards young adults. There has been a significant fall in number of young adults aged up to 25 in prison this decade. This age group now make up 17% of the total prison population, although their number are expected to rise modestly again according to 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).
19. T2A is aware of some reconfiguration of the prison estate in which young adults are held including at HM YOI Aylesbury and HMP YOI Swinfen Hall. The Committee should establish what HMPPS’s approach to the management of young adults in custody currently is. We are also aware that HMPPS is conducting a review of provision for long-term sentenced young adult men. Young adult men are increasingly serving longer prison sentences, with a growing proportion not due to be released until well into adulthood.
20. It is also important to consider the situation for young adult women who are mixed with adults by default. T2A [recommended in 2013](#) that systematic research be undertaken into the benefits and drawbacks of mixing young adult women and adults within adult prisons, the kind of assessments that should be undertaken before doing so, and the range of regimes that should be offered to women in prison. Again, to our knowledge, this has not occurred.

T2A welcomes the strengthening of HMPPS’ governance arrangements for young adults in prison and recommends that HMPPS also establishes effective monitoring arrangements to ensure that the impact of resulting changes in policy and practice for young adults can be definitively determined.

Resettlement and rehabilitation children and young people

d) What mechanisms exist to transition young people from the youth to the young adult/adult estate? What challenges does this raise and is more support required?

21. T2A welcomes the Committee's recognition of the importance of effective transition from the youth to adult estate. Since the Committee's last report on young adults, changes have been made to Her Majesty's Inspectorate of Prisons' expectations for children and to Youth Justice Board standards. The Inspectorate created a new and separate expectation specifically on transfer between the youth and adult estate and the YJB included a separate national standard on transitions and resettlement for the first time.
22. Practitioners are expected to manage transitions in accordance with the jointly agreed YJB and HMPPS Transition from the Under 18 Estate to the Young Adult Estate Policy Framework for custodial transfers. The stated purpose of the framework is to “clarify processes and promote consistency of transitional services across custodial establishments in England and Wales.”ⁱ
23. The Committee could usefully examine the impact of these expectations and guidance, the extent to which they are coherent, and how they are being adhered to in practice. T2A regards it as essential that all establishments responsible for young adults in transition between the children’s and young adult estates have effective protocols in place to manage the transfer process. While it is important to promote consistency of practice, T2A believes that it is also necessary to ensure that there is sufficient flexibility to enable appropriate decisions to be made in individual cases, for example there will be cases in which retaining a young person in the children’s estate while they finish serving their sentence is the most appropriate response. T2A

urges the Committee to question what the YJB and MOJ are doing to monitor the impact of the protocol and standards on young people's experiences and the extent to which outcomes have been improved as a result. For example, are children who are likely to be transferred identified early so that any potential disruption to the young person can be minimised and on what basis are decisions to transfer being made? The former Committee heard some concerns that financial pressures could result in fewer 18-year olds who are nearing the end of the custodial element of their sentence being retained in the youth estate.

24. The YJB specifies in its standards that YOTs and where applicable secure establishments should provide a tailored plan for children making a transition which sets out the personal and structural support to be made available to support the child develop a pro-social identity, identify the child's strengths and capacities (and those of the wider community around them), how these factors will impact upon the activities and be built into a full desistance plan and it should be the subject of regular and joint review. T2A welcomes this and would be keen to know the extent to which this is occurring in practice. T2A is concerned that though the various documents described above contain encouraging recognition of good practice, the lack of mandatory requirements may mean that they could easily get lost amongst competing expectations. In addition, there is a risk that statutory requirements towards children and care leavers, for example, may get overlooked. The Committee should examine the approach of prison governors and operational officers in seeking to adhere to these various pieces of guidance.
25. It is particularly important that transition plans take account of the needs and circumstances of individuals with protected characteristics under equalities legislation, including women and people from BAME backgrounds, and of young people with experience of the care system. The small number of girls in youth custody are either held in secure children's homes or secure training centres, with none held in young offender institutions. In addition, there are fewer female custodial establishments than male, meaning that women are often held much further away from their families and local communities. For young women, this can make the transition from youth into adult detention particularly abrupt, and so special attention needs to be given in transition planning to any potential vulnerabilities and the views of the young person and their families. Young people from BAME backgrounds may also face challenges in transitioning from youth to adult establishments. Careful attention needs to be given in transition planning to ensuring that provision is culturally sensitive, for instance, by taking account of links with family and local communities and any particular faith needs. Care leavers face particularly challenging transitions and have statutory entitlements to support from local authorities and prisons under the Care Act 2014 and Children and Social Work Act 2017. T2A proposes that in examining current practice, the Committee considers how the MoJ, YJB and HMPPS have responded to relevant sections of the [Lammy review](#), the two Farmer reviews, and the [Laming review](#) on the overrepresentation of children in care in the criminal justice system.
26. In examining transition planning, T2A also urges the Committee to examine the operation and impact of the National Young Offender Governance board, led by the National Probation Service and comprising regional representatives of NPS divisions and the Youth Justice Board. The Board oversees seven strands of work: governance, disproportionality, looked after children and care leavers, health, management information, transitions, courts and maturity assessments. Initially, it was not clear how prisons were represented on this Board; T2A understands that there is now representation, linked to the new governance arrangements.
27. One of the roles of the Board is to monitor impact, including on disproportionality. The Government stated in its response to the Committee's follow up report that the Race and Ethnicity Board would consider opportunities for BAME young adults as part of its work reviewing strategy and progress on actions. T2A directs the Committee to para 53 of its follow-

up report and proposes that questions are asked of i) HMPPS about the impact of the National Care Leavers Forum and network of regional leads on the awareness of entitlements and co-ordination of support to care leavers in prison and the additional support afforded under the Offender Management in Custody model, and ii) and representatives of local government and Catch 22 about the extent to which local authorities are meeting the needs of young adults with care experience and how HMPPS's work with Catch 22 is assisting.

28. The Committee proposed an additional workstream for the Board on examining the data about outcomes for young adults and identifying and addressing gaps in the evidence base. The government responded that it did not have capacity for this, apart from in relation to disproportionality. While T2A is sympathetic to capacity issues, this results in a situation in which it is challenging to determine the impact of the government's approach towards young adults who are transitioning from the youth to adult system and others within the prison system.
29. The potential detrimental impact of forthcoming structural changes to the probation system on transitional arrangements for young adults (while the reforms bed in) are another important consideration.

T2A recommends that the Justice Committee reviews the coherence of guidance and standards around transitions from the youth to the adult prison estate, how they are being adhered to in practice and the impact on outcomes for those transitioning. Particular attention should be paid to outcomes for BAME young adults and care leavers.

ⁱ See also T2A responses to draft [Transition of young people from youth to adult custody policy framework](#), February 2019 , [draft HMIP expectations for child young offender institutions](#), July 2018, and [draft YJB national standards](#), November 2018