

Home Office Serious Violence Duty Draft Guidance

Consultation response

Transition to Adulthood Alliance, July 2022

The Transition to Adulthood (T2A) Alliance evidences and promotes effective approaches for young adults (18-25) throughout the criminal justice system (CJS) and is convened and funded by the Barrow Cadbury Trust.ⁱ T2A welcomes the opportunity to respond to the consultation.

Q1. Does the draft statutory guidance improve your understanding of the legislation relating to the Serious Violence Duty?

T2A is of the view that the draft statutory guidance could be clearer in certain respects in seeking to improve understanding of the legislation relating to the Serious Violence Duty (and other important legislative principles).

First, in the legislation there is no mention of the cohorts at which the Duty is targeted, yet the guidance refers repeatedly to 'children and young people' and to 'youth violence' without making this clear or defining the parameters of each of the terms. Equating the term 'serious violence' primarily with 'children and young people' and with 'youth violence' within the guidance may give the false impression to those reading it that this emphasis derives from the legislation and could serve to steer responsible authorities into narrow interpretations of serious violence, those perpetrating it, and consequent actions to prevent or reduce it. We discuss this further in the next section.

Secondly, we also have some concerns about the definition of 'serious violence' itself and how this corresponds to the legislation. In Section 2 of the factsheet on the Serious Violence Dutyⁱⁱ, the government notes that in the legislation the term serious violence encompasses both domestic abuse and sexual offences, yet in the guidance readers are told that the duty *could* extend to other types of serious violence, which *could* include (*but is not limited to*) domestic violence, alcohol related violence, sexual abuse, modern slavery, or gender-based violence (*emphasis added*). T2A is concerned that aspects of serious violence specified in the Police, Crime, Sentencing and Courts Act should not be an optional extra as is implied in the draft guidance. These were included in the legislation for important reasons including the fact that local partnerships do not yet have adequate or age-appropriate intervention and support structures in place to deal with these issues. On the other hand, including 'violence against property', which is mentioned elsewhere, when this is not specified in the legislation risks several issues arising including regional disparities in approach, net widening of the cohorts in the scope of the needs assessments, and dilution of the focus and impact on serious violence as intended by Parliament.

Finally, we consider it would be helpful for the government to integrate within the guidance other priorities for the partnerships by drawing attention to other legislative parameters which they must take account of. This should include:

- protected characteristics which must be considered by all partnerships in cohort data and the risk of disproportionality which should be properly monitored; this should include, at a minimum, age, neurodiversity, gender and race.
- the role of the National Preventive Mechanism and how the Serious Violence Duty interacts with legislation on both modern slavery and exploitation and on knife crime prevention orders and serious violence reduction orders.

Q2. Are there any specific aspects of the Serious Violence Duty that remain unclear (or are missing) after reading the draft Statutory Guidance? If yes, can you provide details?

Terminology

In our response to Q1 we noted our concerns about the lack of clarity about the term children and young people. Some definitions used in the guidance are helpfully defined in the glossary, but 'children and young people' and 'youth violence' are not. We propose both that—in the first mention within the substantive text and within the glossary—the term children and young people is defined and that this must include young adults aged 18-25. This corresponds with the definition of young adults used in the Serious Violence Strategy (2018)—which used the terms young people and young adults—and elsewhere in the criminal justice system, notably by Her Majesty's Prison and Probation Service.

Similarly, there are several references made in the guidance to 'vulnerability'—primarily in the context of children and young people—and to the need to identify 'vulnerable cohorts'. Nevertheless, there is no overarching statement on which cohorts this might comprise; readers may therefore be left with the impression that the focus should be on children and young people which may risk partnerships overlooking others.

It is important that partnerships understand the relevance of maturity and young adulthood for their work on serious violence. T2A proposes that young adults should be explicitly referred to as a vulnerable cohort given responsible authorities' obligations regarding the protected characteristic of age and the various implications of the neuro-scientific evidence on brain development during the important maturational period of 18-25.

Neuro-scientific evidenceⁱⁱⁱ

The brain remains in an active state of development until between approximately 25 and 30 years of age. The control centre of the brain (prefrontal cortex) which governs prosocial behaviour, successful goal planning and achievement only reaches full biological maturity at 25 years or older. The last region of the brain to develop is that responsible for executive function.

As a result, young adults may not have fully developed the cognitive abilities which are necessary for **prosocial behaviour, successful goal planning and achievement**. They are likely to have **immature and compromised core cognitive abilities** including **poor impulse control** (thinking before acting) and **challenges in evaluating risks**, including **dealing with unanticipated challenges and adapting to changed circumstances**. This, coupled with an increased motivation to achieve rewards which develops in adolescence and young adulthood is thought to be the most likely underlying mechanism contributing to **poor problem solving, poor information processing, poor decision making and risk-taking behaviours**. This is important due to the impact on them understanding of complex social situations, including emerging involvement in serious violence.

This typical maturation may be hindered or compromised by several factors including **traumatic brain injury, alcohol and substance use, psychiatric and neurodevelopmental disorders and adverse childhood experiences**.

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 acquired brain injury (ABI, an impairment to the brain from an external mechanical force or strangulation), are associated with more violent offending.

The implications of this evidence include that this cohort:

- should be considered vulnerable and open to exploitation;
- should be considered less culpable;
- should be assessed for neuro-diverse needs, with appropriate pathways identified to enable them to understand their condition and deal with related challenges;
- is likely to have poorer responses to authorities and are at greater risk of not engaging or complying with criminal justice enforcement and sanctions;
- is most likely to desist from offending as they mature because young adulthood is a particularly good time for learning, personal growth and the development of pro-social identity and because behaviour change is more readily possible while the brain is still developing and has plasticity
- is at risk of becoming entrenched in criminal behaviour without the right (age-specific and age-appropriate) interventions.

We welcome 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. Nevertheless, there is a cohort of young adults currently involved in such offending who may themselves have been exploited before this became a policy priority and may not now have reached the current position they occupy within the supply chain, in which they might be seen as a significant or leading role, had they been identified as having been exploited at a younger age. Understanding these dynamics fully in the context of individual cases will not be straightforward and may be challenging to evidence satisfactorily. This adds weight to our proposition above of the need for a definition of children and young people that explicitly includes young adults.

Other areas that could be clarified include:

- the practical challenges for young adults (and other cohorts) related to wider social policies which create a 'cliff edge' by narrowing support options post-18 and hinder young adults' development and capacity for independence, creating structural barriers to moving away from crime which partnerships will need to mitigate the impact of e.g. lower minimum wage, lower entitlement to unemployment and housing benefits, lack of access to dedicated mental health support;
- the importance of understanding the systemic failures that may have contributed to ongoing engagement in the CJS and participation in serious violence, including the impact of recent, unaddressed trauma and deprivation at micro-area level with implications for investment in health services, family support and early intervention;
- the importance of seeking to identify levels of victimisation among perpetrators of serious violence as well as victims^{iv};
- what is meant by terms such as 'protecting communities and serving their needs' and clarifying how strategies can best reflect the WHO principle that interventions must be 'with and for communities' including considering the particular demographics of *a//*local communities and what targeted approaches might be more or less likely to enable their engagement;
- similarly emphasising the importance of challenging existing thinking about young people involved at risk of or involved in serious violence; most importantly, understanding the impact of racial bias and past and present racial trauma as well as the phenomenon of adultification,

whereby young black adults are seen as more mature than their age, and the potential for unintended outcomes because of both.

- what an anti-racist response would entail in both England and Wales, with England being explicitly encouraged to adopt such a response despite the absence of a specific duty to do so.
- For example, anti-racist strategies will ensure that all interventions are fairly and appropriately targeted with regular input from representative organisations and suitable monitoring. This should include active and properly resourced regulation of data about individuals collected by the authorities so that it is not discriminatory. Guidance should make sure that local agencies recognise the impact of past and present racial trauma and keep in mind needs for growth and the protection of resilience factors. 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.
- violence against women and girls should not be an optional addition, as stated in para. 28, but instead be included in each strategy; all local assessments of need should pay close and ongoing attention to indicators of violence against women and girls that may go unrecorded.
- the implications of the neuro-scientific evidence for appropriate interventions to prevent and address serious violence.

Governance arrangements

The guidance does not specify a leadership structure. The guidance refers to a 'convening' role for police authorities but the implications of this are not made clear. The vital role of a unifying, cross-agency leadership may be misunderstood by other stakeholders if there is not greater clarity. To strengthen a preventive and public health-oriented strategy, the NHS, local authority care services and Safeguarding Boards should be at the heart of the strategic leadership. Guidance should ensure that strategic leadership does not default solely to the police as can for example with Community Safety Partnerships.

The role of individual prisons in local strategies is likely to be very particular, given the distributions of prisoners placed out of their home areas. Young adults are distributed across prisons all over England and Wales. It is crucial that local strategies can take full account of releases from across the country; if relationships with prisons are to work there needs to be clarity about HMPPS's role in local resettlement and risk reduction and in sharing data with local partnerships.

Data, data sharing, monitoring and data protection

We note an important drafting ambiguity in para 93 of the guidance with respect to data sharing by youth offending teams (Yots). The guidance states that Yots must "share relevant aggregated and anonymised data, where practicable". It is important for the wording of this to be clarified to ensure that Yots are not under the false impression that they are under an obligation to share data which is not aggregated and anonymised.

Reference should be made to specific safeguards that are in place regarding information sharing of health and social care data. The guidance should clarify what safeguards should be put in place for third sector organisations. Given the importance of legitimacy for effective engagement, it is important to protect organisations with often closest relationships with young adults from 'fishing expeditions' and information gathering about associations and networks which damages trust and relationships. One of the factors that should legitimately limit the sharing of information is the perception that information could be leaked to third parties and put someone at risk.

It is unclear whether electronic monitoring and GPS data is covered by the guidance in terms of expectations of data sharing and data protection.

T2A is concerned that there are significant limitations in the outcomes data proposed. In particular, the emphasis is placed on criminal justice outcomes rather than other social or quality of life outcomes. We propose that other options are explicitly referenced:

- There is an opportunity to include outcomes which would relate to safeguarding. This might include for example, National Referral Mechanism (NRM) referral progress indicators and outcomes and the extent to which this process is used for 18–25-year olds;
- Referrals to housing and health pathways;
- It should be mandatory for areas to monitor processes and outcomes related to protected characteristics of age, gender and race as part of adherence to the Public Sector Equalities Duty. This should include publishing equalities impact assessments alongside the strategy;
- Partnerships should be expected to collect new data in order to inform its response rather than rely solely on what already exists within responsible authorities or other local structures. The government's responses to Parliamentary Questions on young adults⁹ illustrate the current limited understanding about the effect of adverse childhood experiences on levels of criminality in young adults who are either charged or sentenced, including for serious offences. For example, the government does not collect data on the effect of adverse childhood experiences on levels on criminality in young adults who are either charged or sentenced. Neither does it hold any data that would allow it to say what proportion of young adults convicted for serious offences were themselves past victims of the specified offence types; in the absence of such data, we are concerned about how local partnerships will meaningfully determine and make informed decisions about the strategic needs of key cohorts. There are similar issues in terms of understanding the neurodiverse needs of young adults as the existing criminal justice system does not routinely screen for or clinically assess those needs;
- The level of commissioning with third sector and community organisations should be monitored across the partnership as well as what impact their engagement is having on outcomes for victims and perpetrators, or those suspected of being either. This should include a range of measures including sexual violence.
- Information requests explicitly made under the terms of the Act should be carefully recorded and monitored.

We also consider that key monitoring data for local partnerships should be specified in the guidance and collated centrally to enable better national understanding of the characteristics and needs of victims and perpetrators.

Consultation with third sector, young people and communities

We commend the role envisaged for Third Sector organisations in Wales which are regarded as 'an equal partner'. Guidance for England should echo and encourage this. More attention is needed about assisting local agencies to identify community organisations that currently support vulnerable families and children, resourcing and empowering them so they can have a strong say on the strategy and its implementation.

The guidance refers to 'consultation arrangements with young people and communities' but needs to clarify the part played by communities in decision-making. More emphasis should be given to creating organisations of community actors with lived experiences to act as mediators and protectors subject to safeguarding requirements. It is clear from evidence that credible and

empowered community actors can have an influence and impact through mediating with hard-pressed communities.^{vi}

Activities to reduce serious violence

It is currently unclear how the guidance relates to young adults or what a public health approach towards young adults should comprise. In T2A's view, the strength of the neuro-scientific evidence results in a need to define what a public health approach to young adults should look like, as distinct from that for children and for older adults. This should recognise that 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 ([Serious Violence Strategy](#), 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.

Preventive and criminal justice interventions that are not designed with maturity in mind impact on young adults particularly poorly as they mature, 'grow out of crime' and seek to build positive adult identities. Current practices are often deficit-based and focused on enforcement and risk management rather than understanding maturity or any vulnerability stemming from childhood trauma or neurodiversity. It is important for policy and practice for young adults to avoid reinforcing involvement in the CJS but rather 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 and the subsequent work of both Nacro and Professor Neal Hazel on the identity shift crucial for desistance shows the importance of agencies providing both structural and personal support to 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 adults should also be recognised as the central agent in their own rehabilitation. Asset-based approaches towards adult perpetrators of serious violence are a departure from existing practice within the criminal justice system which focuses on enforcement and risk management. There is a need for partnerships to take time to think through carefully what an appropriate approach to young adults should look like that recognises and reflects the research evidence. T2A considers that there is significant learning from practices upstream in the criminal justice system related to diversion and out of court disposals, for example.

In recognition of this and the current absence within the links to additional information to support responsible authorities and partnerships in their consideration of young adulthood, we draw your attention to the following reports selected from the significant evidence base that T2A has amassed over the last decade or so:

- NACRO, [Using an identity lens: constructive working with children in the criminal justice system](#) (which can equally be applied to young adults);
- Birmingham University [literature review on maturity and criminal justice](#);
- The Scottish Sentencing Council [systematic review](#) of neurological, neuropsychological, and psychological evidence on cognitive maturity.

We note that there is no reference within the guidance to the National Referral Mechanism and we are concerned at this oversight given the importance of this process for supporting young people, including young adults, out of violent crime. Anecdotally, T2A has heard that those referred are not getting the protections they are entitled to from the point of referral, including accommodation and emotional wellbeing, for example.

We also consider that there is also a need for more explicit practical guidance on what a public health approach to reducing serious violence amongst specific cohorts should look like. For young adults, T2A suggests the following elements could be used to inform a young adult focussed public health approach:

(A) Interrupt transmission:

1. Identify and prevent potential retaliations
2. Mediate conflicts through the use of credible messengers

(B) Target those at highest risk:

1. Invest in changing behaviour – provide additional resources at critical times, support the introduction of new role models, set up rewards and the develop problem solving skills.
2. Provide trauma informed psychology services.

(C) Change Communities' Norms:

1. Support community responses to conflict by enhancing its social capital
2. Develop multiple messengers

(D) Using data strategically for more sustainable & proactive asset based approach

1. Collect and conduct data analysis
2. Sharing of data with clear information sharing protocols, which do not disadvantage the target group and does not undermine their trust in community advocates

Q3. *We are keen to include updated case studies to support the statutory guidance and to support continuous learning on serious violence. If you are able to provide a case study, please provide brief details below, including your contact details.*

One of the suggested case studies is an example of effective engagement and collaboration with communities. There are good examples of HM Prison and Probation Service and the Mayor's Office of Policing and Crime engaging with young adults through Leaders Unlocked's Young Advisors programme funded by the Barrow Cadbury Trust to enable them to co-produce strategies and service specifications and to provide ongoing learning and challenge during project implementation. Leaders Unlocked also undertakes peer-to-peer research with young adults involved in the criminal justice system to fully understand their experiences and working in partnership with Police and Crime Commissioners they developed the Youth Commission model to enable young people to inform policing decisions in their regions. See <http://leaders-unlocked.org/>.

The National Referral Mechanism (NRM) pilot programme is a good example of a multi-agency approach whereby decision-making is devolved to local safeguarding partners – local authorities, police and clinical commissioning groups – which have a duty to work together to safeguard and promote the welfare of children including child victims of modern slavery. We hear that it is more effective and efficient when local authorities have these devolved NRM decision-making powers but note that the pilot programme currently only cover NRM decisions for children, and could be usefully extended to young adults.

Bedford and Thames Valley Violence Reduction Units are particularly good examples of meaningful engagement with strategic data analysis and local equalities issues.

Other examples of effective engagement and collaboration include:

- Project 507's Young Kings Programme a specialist one-to-one case management intervention that uses a trauma-informed approach to support young people affected by violence. The programme incorporates a range of personal development and life skills

sessions that translate into practical actions, supporting the navigation of social situations and life events. It has been run in custody since 2015 as part of the CFO3 South East contract, through the prime Ixion Holdings;

- The Liminality Group's Decipher + and Most Valuable Player programmes;
- Milk and Honey Bees programmes;
- Barnardo's See, Hear, Respond programme; and,
- Juvenis's Divert Youth programme.

The Centre for Crime and Justice Studies evaluated arrangements for reducing serious violence pre-2019 and could provide case studies to illustrate the detrimental impact of not supporting effective engagement with communities.

Q4. To what extent do you agree or disagree with the following suggestions for support for local areas on the Duty? National seminars; Peer support by operational experts; National Facilitators; Local consultancy support; Other (please state). Please provide details to support your response.

- T2A would be willing to collaborate with the Home Office to convene a national seminar on the young adult cohort. See also Q5.
- Partnerships should be supported to review and critique the quality of the national evidence base, including exploring what learning there is nationally from VRUs, PCCs and Community Safety Partnerships about what is effective in tackling serious violence. The Home Office should provide funding for evaluating initiatives which improve the evidence base and plug gaps in it, including for young adults. The Home Office should also collate and disseminate key messages from the What Works reviews issued by the College of Policing, Youth Endowment Fund, and Early Intervention Foundation. This should include, for example, how to manage effective responses to serious incidents, while avoiding unproductive responses such as high volume stop and searches.^{vii}
- There should also be collective support to identify and address challenges for partnerships related to wider, national social policies which create a 'cliff edge' by narrowing support options post-18 and hinder young adults' development and capacity for independence, creating structural barriers to moving away from crime e.g. criminal records, lower minimum wage, lower entitlement to unemployment and housing benefits, lack of access to dedicated mental health support.
- All responsible authorities should receive mandatory training on maturity and young adulthood; contextual safeguarding; transitional safeguarding; complex safeguarding; adultification; and unconscious bias. Health services should be mandated to provide awareness and training on trauma informed and trauma responsive practice.
- Local areas should be supported in how best to consult with young people, including young adults, about appropriate information sharing between agencies and what safeguards young people should be subject to.
- Local areas should be supported in terms of how best to mitigate potential power imbalances between state agencies and the charity sector in England which differs importantly from Wales where VCS organisations are an equal partner.

Q5. To what extent do you agree or disagree with the following suggestions for areas of support for local areas on the Duty? Data and information sharing; Strategic Needs Assessments; Multi agency working; Defining Serious violence; Other (please state).

- Support to mitigate the risk of differences in local interpretation of what data protection arrangements should be in place within partnerships and between responsible authorities and

how to mitigate against over-policing and inappropriate intervention; support to ensure that there is clarity in terms of expectations of data sharing by other, non-statutory, organisations, particularly those in small voluntary and community sector organisations including how to address practical challenges such organisations might face in accessing necessary data, technology and training to ensure that the data they are required to hold is kept appropriately and securely, including on encrypted systems.

ⁱ <https://t2a.org.uk/>

ⁱⁱ <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-factsheets/police-crime-sentencing-and-courts-bill-2021-serious-violence-duty-factsheet>

ⁱⁱⁱ See for example, Scottish Sentencing Council (2020) [The development of cognitive and emotional maturity in adolescents and its relevance in judicial contexts](#), University of Edinburgh.

^{iv} <https://www.repository.cam.ac.uk/handle/1810/332031>

^v HC Deb, 10 March 2021, cW; (UIN [163689](#); UIN [163688](#)); HC Deb, 15 March 2021, cW (UIN [166404](#); UIN [166405](#); UIN [166406](#); UIN [166407](#)); and HC Deb, 25 March 2021, cW ([UIN 173003](#))

^{vi} <https://www.annualreviews.org/doi/pdf/10.1146/annurev-publhealth-031914-122509>

^{vii} See for example [https://assets.college.police.uk/s3fs-public/2022-03/Knife Crime Evidence Briefing.pdf](https://assets.college.police.uk/s3fs-public/2022-03/Knife%20Crime%20Evidence%20Briefing.pdf)