



T2A Response to the Ministry of Justice consultation on Diversionary and Community Cautions: Draft Code of Practice – August 2023

[Diversionary and Community Cautions: Draft Code of Practice - Ministry of Justice - Citizen Space](#)

T2A responded to questions 1, 2, 12 and 16

Questions

1. Are you an 'authorised person' representing a prosecution agency that issues OOCDS?

(Please select one: yes; no) If yes, please specify the agency you represent and how the new framework will impact you.

No

2. Do you agree or disagree that the Code of Practice strikes the right balance between providing a clear framework for decisions and individual case flexibility?

Disagree

We would call for additional flexibility specifically to be given in the case of young adults aged 18-25. Research shows that the maturation process does not complete until a person's mid-twenties, and during the ages of 18 to 25 there is a unique opportunity for young adults when they can either utilise diversion and rehabilitative services or end up embroiled in a repeated series of crisis and crime. Considering this, we would call for particular care to be given to ensure that as far as possible, Community Resolutions are used to avoid further criminalisation, and that any conditions received are intended to help them develop positive identities as they transition to adulthood.

12. Do you agree or disagree that the requirement for and method of reporting the use of cautions should be mandated more strongly in the Code of Practice? (Please select one:

Strongly agree

Recording use and outcomes based on age is particularly important when considering their use and impact for young adults because research shows young adults do not complete the maturation process until at least 25, making the period between 18 and 25 a particularly pertinent time for using diversionary conditions within OOCDS rather than more punitive outcome.

16. Are there any gaps or aspects in the Code of Practice that cause concern or may have adverse effects for individuals with protected characteristics?

T2A's aim is that young adults (those aged 18-25), due to their complex and unique characteristics, are subject to a distinct approach at all stages of the criminal justice system to improve their outcomes and support their needs. T2A has sought to promote more universal provision of diversion

schemes through its collaborative work with the Centre for Justice Innovation, the Criminal Justice Alliance, and Revolving Doors Agency.

Revolving Doors' recent work with the police, PCCs and local partners identified that where there is a focus on diversion schemes there are significant gaps in local provision for young adults who typically require a high degree of practical and emotional support. These gaps are illustrative of fragmented provision for young adults and include, for example, the time- and offence-limited nature of diversion schemes, and the absence of distinct age-appropriate support. The neuro-scientific evidence on brain development and statutory agencies' obligations under the Equality Act related to age warrants such provision and its absence results to indirect discrimination. For example, without age-appropriate support which takes into account the behaviours related to their stage of development they are less likely than older adults to comply and this may result in a greater likelihood of them receiving a financial and punitive penalties. We propose that age is added to the list of factors to be taken into account related to what is achievable within point 6.25.

Attaching punitive conditions would also be directly discriminatory due to the greater penalty young adults would experience because of their lower entitlements to both statutory benefits and level of minimum wage linked to their age. We propose that this would be covered by the combination of the above amendment and the existing inclusion of penalties imposed being commensurate with means.