



House of Commons
Justice Committee

**Young adults in the
criminal justice system:
Government Response
to the Committee's
Eighth Report of
Session 2017-19**

**Fifth Special Report of Session
2017–19**

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Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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Committee staff

The current staff of the Committee are Rhiannon Hollis (Clerk), Fiona Hoban (Second Clerk), Gemma Buckland (Senior Committee Specialist), Nony Ardill (Legal Specialist), Claire Hardy (Committee Specialist), Christine Randall (Senior Committee Assistant), Su Panchanathan (Committee Assistant), George Hooton (Intern), and Liz Parratt and Simon Horswell (Committee Media Officers).

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Fifth Special Report

We have received the Government's Response to our Eighth Report, *Young adults in the criminal justice system*, HC 751. The response came in a letter dated 15 August 2018 to the Chair of the Committee from Rory Stewart MP, Minister of State for Justice. We publish this letter as an Appendix to the Special Report.

Appendix: Government response

Thank you for your report of 12 June 2018. We recognise that this report forms part of a longer dialogue between the committee and the Ministry of Justice on Young Adults in the Criminal Justice System, and we are grateful for the committee's engagement thus far.

We agree with the committee's contention that young adults are a group with a set of distinct needs, and that these require a distinct approach. Whilst youth may not be the only factor affecting their engagement with the Criminal Justice System, we do recognise that where maturity is an issue, a young adult offender may require an intervention or approach that takes this into account.

There are a number of measures already in place to respond to the issues affecting this cohort, but we recognise that there is more to be done. We acknowledge that it has proved challenging to deliver positive outcomes for young adults in prisons, and we are cognisant of a particular set of issues in reception prisons in London, which have undergone a redistribution of young adult offenders amongst the adult estate in recent years.

Due to the constraints of the current prison estate, we must look at how best we can manage this group within the adult population. We are committed to developing our evidence on the most effective interventions for this cohort, and we are conducting a research project to develop our current understanding. We are also developing a Model for Operational Delivery (MOD) for Young Adults, recognising that this a distinct cohort where particular consideration is required to meet their needs and risks. This will provide potential solutions to the challenges facing young adults, including examples of existing good practice.

We are grateful for the committee's energy and enthusiasm on this issue, and we will continue to develop our approach to addressing the needs of young adults as we work to understand what the most effective interventions are for this cohort. Given that any decisions we make about developing further work and dedicating resource in this area will impact resource in other areas, we will consider carefully any future programme of work as part of future decisions on priorities.

We attach further detail below of our approach to young adult offenders in response to the committee's report, and we look forward to engaging further with the committee's expertise to inform our thinking and decisions.

Introduction

1. We recognise that young adults are a cohort who may have distinct needs relating to their maturity, alongside other issues they may have in common with the adult offender population. Whilst we will continue to manage young adults as part of the adult offender population, we are committed to developing approaches within the adult system that recognise and respond to their particular needs.

2. In its first report on young adults, the committee recommend extending the age range of the detention in a youth offender institution (DYOI) sentence up to 25. We acknowledge the intent to apply a distinct approach and regime to the young adult cohort through this mechanism, and we recognise that it is appropriate to expand the definition of ‘young adult’ beyond 21 years of age. However, we would not wish to replicate a strict upper age limit to a distinct young adult approach, given that there may be individuals who have the same set of needs beyond their twenty-fifth year. Instead, we will consider the continued utility of the DYOI sentence, given the changing landscape of the prison estate and the evidence on young adults. We will explore whether a coordinated approach to young adults within the adult estate might supplement or replace this sentence.

An approach to young adults

Identifying best practice

3. In reference to the JSC’s recommendation in paragraph 51,¹ the MoJ has appointed a dedicated expert (on secondment from the voluntary sector) to identify best practice across the custodial estate in relation to young adults. This work will scope out areas of specialised practice or approaches that meet the needs of young adults in prisons particularly well; this will include visits to various prisons housing this age group, as well as speaking to key MoJ and HMPPS staff who have interest and expertise in this area. Issues under discussion include outcomes related to maturity; brain injury; violence reduction and behaviour management; BAME young adults; education and purposeful activity and the keyworker role under the new Offender Management in Custody model.

4. As part of this project, we are currently running a number of stakeholder workshops for senior HMPPS and MoJ staff. These will explore best practice for managing the needs of young adults, establish the key issues for prisons in the management of young adults, and establish a more coordinated approach to this cohort.

5. We will also be initiating young adults practice development groups for operational staff, which we intend to be sustained independently after the conclusion of the scoping exercise. These groups will allow prison staff to create a network of contacts with expertise and interest in promoting best practice for young adults in custody. They will showcase positive and innovative work that is taking place locally, which can then be disseminated

1 “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. Nevertheless, we share our predecessor’s grave concerns 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 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.”, (ibid, paragraph 51)

on a wider scale. The project is due to conclude by late autumn. In light of the results of this project, we will be looking at what more is required to deliver a consistent and coordinated approach for young adults.

Models for Operational Delivery

6. Models for Operational Delivery (MODs) have been developed to support the reconfiguration of the estate into three main prison functions – Reception, Training and Resettlement – and to enable Governors and Commissioners to tailor and commission services according to that function and the cohorts of prisoner the prison will hold. As part of this, we have identified ‘specialist’ cohorts where particular consideration is required on how to best meet the needs of specific groups and manage them effectively. A specialist MOD for young adults is being developed to reflect the evidence that they can have different needs and risks, to support all prisons managing them and better equip Governors to cater for this group. The young adult MOD will provide, 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. The MOD has been designed for use by all prisons holding the cohort. It could be particularly useful either where there are high numbers of young adults or very few and the prison lacks experience in meeting the needs of this group.

7. We would welcome engagement with stakeholders on the young adult MOD, and will look to consult with them in advance of implementation.

Addressing the particular needs of young adults throughout the Criminal Justice System

8. The committee has highlighted a number of areas throughout the CJS where young adults face difficulties due to their distinct needs. We will continue to ensure that maturity and different neuro-developmental needs of young adults are taken into account.

Prosecution and Sentencing

9. In reference to the JSC’s recommendation in paragraph 61,² maturity is already taken into account in sentencing decisions,³ and all CPS prosecutors are made aware of the importance of considering age and maturity in weighing up whether a prosecution should be brought, as part of the public interest criteria in the Code for Crown Prosecutors. We have already committed to specifically referencing age and maturity in all future updates to CPS legal guidance, where relevant and appropriate. An example of this is our recently revised guidance on Secondary Liability (previously titled “Joint Enterprise”), which reflects the issue of maturity concerning young adults and how it affects their culpability in

2 “We remain of the view that research on sentencers’ and prosecutors’ understanding of maturity, as well as on the impact on young adults of assessments of maturity made during prosecution, pre-sentence and sentencing, is necessary. We urge the Ministry, in its endeavour to be data-driven, to conduct this research using data from the National Probation Service, Sentencing Council and Crown Prosecution Service. We ask that the Crown Prosecution Service keeps us informed on its decision regarding possible amendments to the Code related to consideration of age and maturity. The CPS should consider piloting the use of youth prosecutors who are specifically trained in understanding maturity for decisions involving young adults up to the age of 25.”, (ibid, paragraph 61)

3 The Lord Chief Justice’s office has expressed views in judgements about maturity <http://www.bailii.org/ew/cases/EWCA/Crim/2018/185.html>

such criminal cases. The CPS is undertaking a review of the Code for Crown Prosecutors and a public consultation is currently underway. The consultation invites consideration as to an amendment that could further address the maturity issue and we will keep the Justice Select Committee informed of the outcome.

10. Further, in relation to developing prosecutors who specialise in young adults, it is already possible for youth specialist prosecutors to bring their expertise to other cases, including offenders in this cohort. However, we are concerned that a national policy to pilot specific prosecutors in particular cohorts would cause an imbalance in resources and therefore slow down processes for other vulnerable groups of offenders, of which young adults may also be a member.

11. The NPS Effective Practice Division is mid-way through a work programme to drive the quality of pre-sentence advice, particularly where there is a correlation between certain protected characteristics and disproportionate sentence outcomes. Work to develop a women-specific, trauma-informed check list, staff briefing pack and gender-specific report template will be piloted in two NPS regions from August 2018 with a national rollout scheduled for late 2018. The development of a young adult tool kit following similar design principles is due to commence in September 2018, with a national rollout in Spring 2019. This will be followed by the development of a BAME tool kit drawing on the findings of the Lammy Report, beginning early in 2019.

12. Given the existing arrangements mentioned above, the MoJ has no plans to centrally pilot courts for young adults, in reference to the JSC's recommendation in paragraph 63.⁴

Disclosure of criminal records

13. In reference to the JSC's recommendation in paragraph 66,⁵ the Supreme Court recently heard arguments that challenge whether the current criminal records regime is proportionate and will give its findings later this year. Therefore, it is considered that the JSC's recommendations are best considered in conjunction with the Supreme Court judgment and an update will be made to the committee on progress in due course.

Maturity screening in custody

14. In reference to the JSC's recommendation in paragraph 36,⁶ the maturity screening tool is now available to prisons and probation areas via the Segmentation Tool, which enables examination of maturity on a population level. Work is underway to get the tool

4 "We would like to see the Lord Chief Justice's recent observations about young adults' maturity and MOPAC's commitment to establish such a [young adult] court in London give fresh impetus to the Minister and HMCTS to endorse such pilots. We welcome training in brain injury awareness in Welsh courts. This should be extended to English courts.", (ibid, paragraph 63)

5 "We urge them [MoJ and Home Office] to revisit with urgency our recommendations on new statutory frameworks for disclosure [of criminal records] for children and young adults, on which they are yet to respond. We expect to see this response within a month of the Supreme Court judgment.", (JSC report on Young Adults in the Criminal Justice System, paragraph 66)

6 "We expect the Government in response to our report to explain whether in-depth assessments are provided for individuals 'screened' as having maturity needs. We also wish to see a definitive timetable for when the screening tool, maturity pack, and in-depth assessments will be available across the estate, when Government expects to see evidence of their impact, and the specific measures by which they intend to monitor improvement in outcomes for young adults in custody and in the community. We also wish to be informed at the end of the piloting of what proportion of young adults aged 18 to 25 screened were identified as having low maturity.", (ibid, paragraph 36)

embedded within the Offender Assessment System (OASys) to make it more accessible on an individual level, and to produce a standalone version for those individuals who do not have an OASys assessment. This work should be complete by April 2019. An implementation review of the maturity resource pack was completed in May 2018, using feedback from three pilot delivery sites. Initial feedback suggests that the flexible delivery model and content of the resource pack are appropriate and suitable for this group. The resource pack is now ready to be offered more widely, as a non-accredited Interventions Services offer.

15. HMPPS has no plans to introduce a routine in-depth assessment of maturity. However, those who are screened as having low levels of psychosocial maturity and who are considered for the maturity resource pack will take part in a further, collaborative, assessment of their needs, through which they will agree their maturity-related treatment goals. This process draws on case notes and information disclosed by the young adult, which is used to identify specific areas to work on, and to determine how best this need can be addressed on a case-by-case basis (i.e. which exercises to complete and whether this is best delivered individually or in a small group). It is a key feature of the resource pack that the engagement of young adults in this process is voluntary.

Brain Injury

16. In reference to the JSC's recommendation in paragraph 63,⁷ the MoJ innovation board grant funded The Disabilities Trust, who delivered the awareness training and Brain Injury Linkworker service to the two pilot sites in Wales and the four sites in England. The Brain Injury Linkworker service is being qualitatively evaluated, due to report in the autumn. In addition, the Offender Management In Custody roles (OMiC) will look to incorporate some of the linkworker responsibilities.

Offender Management in Custody Model

17. In reference to the JSC's recommendation in paragraph 70,⁸ OMiC case management will be implemented in 2019/20. Plans for an evaluation of case management will be drawn up in advance of implementation. Within OMiC case management we have resourced additional support in the transition of young people from the youth estate to the adult estate. This is being mapped on EQuIP which will be available to prison offender managers once case management is implemented. In addition, we have resourced specialist offender management for all identified care leavers. We will ensure that the evaluation of case management includes reference to young adults as a specialised group.

Evidence, data and reporting

18. We welcome the committee's scrutiny of our efforts to be data-driven, and embrace the importance of this scrutiny to incentivise improvement. In reference to the JSC's

7 "We would like to see the Lord Chief Justice's recent observations about young adults' maturity and MOPAC's commitment to establish such a [young adult] court in London give fresh impetus to the Minister and HMCTS to endorse such pilots. We welcome training in brain injury awareness in Welsh courts. This should be extended to English courts.", (ibid, paragraph 63)

8 "HMPPS must evaluate the effectiveness of the Offender Management in Custody model in a sample of establishments one year after its implementation. This should include a review of i) the extent to which young adults identified as lacking maturity benefit from enhanced case management and ii) the potential benefits of including lack of maturity in the criteria for enhanced case management.", (ibid, paragraph 70)

recommendation in paragraph 39,⁹ data is currently published for the young adults group on re-offending rates (reconviction), successful community order and licence terminations and adjudications. We will consider the publication of safety and offender management data by age and ethnicity within our annual releases but this will be dependent on confidentiality and disclosure rules, whereby very low numbers that risk identifying individuals must be suppressed. The current measure of well-being used by the MoJ and HMPPS, Measuring the Quality of Prisoner Life (MQPL), will form part of the 2018/19 prison-level performance framework. Publishing data for young adults at a prison level will need careful consideration due to the small sample sizes and risk of disclosure. The JSC should note that changes over time are not comparable due to the focus each quarter on different establishment types or issues.

19. HMI Probation are undertaking secondary analysis of existing inspection data to develop the evidence-base underpinning their inspection standards, both at the organisational level and individual case level. They will examine the main drivers of effective delivery and compare findings for different groups (such as by age, gender and ethnicity) where possible, which could incorporate practices involving young adults.

BAME and disproportionality

20. In reference to the JSC's recommendation in paragraph 56,¹⁰ across MoJ and our agencies' work on tackling disproportionality in outcomes for BAME communities in the criminal justice system we do consider the particular needs, issues and approaches for a range of sub-groups. We recognise the importance of considering young adults as one such sub-group.

21. The Race and Ethnicity Board will consider opportunities for BAME young adults as part of its work reviewing strategy and progress on actions. In particular, we are actively developing our thinking around youth and as this is reviewed we will explore if particular policy initiatives should be replicated/extended to young adults. However, we do not commit at this stage to establishing a discrete programme of work for this group.

22. The NPS regard young offenders as those aged up to 25. As such the NPS Young Offenders Board (including its disproportionality workstream) already covers this group and is working alongside the Youth Justice Board around how we can support BAME offenders in this age group.

9 "In order to incentivise improvements and to enable us to scrutinise effectively their commitment to be data-driven with respect to young adults, we shall review on an annual basis HMPPS' outcomes against the performance measures we call on the Ministry to set out. These should include reconviction, compliance with community orders, levels of offending in custody, the use of adjudications and indicators of well-being. The Ministry must also assure us that existing quarterly safety and offender management data will be published in a that existing quarterly safety and offender management data will be published in a form that allows the data therein to be assessed for 18 to 20-year olds and 21 to 24- year olds by ethnicity.", (ibid, paragraph 39)

10 "The MoJ's Race and Ethnicity Board should develop, as a priority, a meaningful programme to address disproportionalities for young BAME adults aged 18 to 25. As disproportionalities are likely to originate outside the criminal justice system addressing them must also be a high priority for the Reducing Reoffending Taskforce. The NPS young offenders Board should also extend its workstream to reduce disproportionalities to young adults up to the age of 25", (ibid, paragraph 56)

Governance

23. In reference to the JSC’s recommendation in paragraph 41,¹¹ a young adult lead has been identified within the Prisons Directorate of HMPPS to ensure that the specific needs of this group are considered.

24. In reference to the JSC’s recommendation in paragraph 40,¹² the National Probation Service (NPS) reviews actions against each workstream at every governance meeting, held bi-monthly. The Board discusses objectives, the completed and planned actions and will add or amend them as required to be responsive to any new change or priority. The Board is happy to share its progress against all workstreams on an annual basis. It is currently signing off its new plan for the coming year and does not have capacity for a whole workstream around gaps in the evidence base for young adults and how to fill them. However, the disproportionality workstream is identifying the current data available to show what gaps exist in data sets, including on BAME offenders. The custodial intervention workstream is also working with the specialist young adult secondee scoping exercise, mentioned in paragraphs 3–5.

25. In reference to the JSC’s recommendation in paragraph 30,¹³ the Reducing Reoffending Board chaired by David Lidington was set up to establish a cross-Government approach to reducing reoffending. The Board is attended by Ministers from the Home Office, Work and Pensions, Treasury, Housing, Communities and Local Government, Education, Wales and Justice. The Board will improve data collection and monitoring across all departments, and will use this information to determine priority areas of work going forward.

26. In reference to the JSC’s recommendation in paragraph 72,¹⁴ as part of our horizon scanning project Justice 2030 we are identifying the main trends that could impact the justice system over the coming decade, and what they might mean for citizens, the state, the government and the department, and how we might respond to them. This project

11 “We welcome HM Inspector of Prisons’ introduction of a new expectation for prisons to ensure that the specific needs of young adults 18–25 are met which should provide the impetus for prison governors and directors to develop dedicated strategies for young adults. To ensure this leads in practice to a coordinated approach being taken by HMPPS to driving improvements in outcomes for young adults across the prison estate, which we consider necessary in the absence of a central lead, we recommend the creation of a young adults Board for prisons, akin to that established by NPS. The Board should comprise all executive governors holding young adults up to the age of 25 in their establishments and should oversee the implementation of an action plan designed to understand, address and reduce poor outcomes for young adults”, (ibid, paragraph 41)

12 “We would like clarification of how progress against its workstreams will be measured and ask that the Board keep us informed of its outcomes on an annual basis. We recommended to HM Chief Inspector of Probation in our response to her consultation on work priorities that they conduct research on effective practices with young adults aged 18 to 25. The Board should consider adopting a further workstream to examine gaps in the evidence base and how best to fill them.”, (ibid, paragraph 40)

13 “The Ministry should draw to the attention of the Reducing Reoffending Taskforce research demonstrating that young adulthood is a distinctive period of development and how this relates to desistance from crime. Having reviewed this, the Taskforce should, by 31 December 2018, develop a cross-departmental programme of action for those up to the age of 25 as a priority group. This should include commissioning work on the potential cross-departmental cost-benefits of adopting a coherent approach which explicitly reflects young adults’ developmental status and extends statutory support, provided to under-18s by a range of agencies, to people up to the age of 25.”, (ibid, paragraph 30).

14 “The Ministry must commit to more fundamental reform in its Justice 2030 project. By 2030 we expect prison and probation services to have developed cultures which recognise young adults’ strengths, address the trauma many of them have experienced, and support them effectively to develop non-criminal identities and for this to be reflected in improvements in outcomes.”, (JSC report on Young Adults in the Criminal Justice System, paragraph 72)

will form part of our strategic thinking as we pursue the department's ten-year strategy to deliver a modern courts and justice system and to create a prison and probation service that reforms offenders.