

# Labour Policy Forum - Justice and Home Affairs

T2A response

Gemma Buckland, T2A Public Affairs Manager

## **About the Transition to Adulthood Alliance (T2A)**

The T2A programme, chaired by Joyce Moseley OBE and convened by the Barrow Cadbury Trust, produces and promotes evidence for effective ways of working with young adults who commit crime. 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.

Since its establishment in 2008, T2A has contributed to significant change in policy and practice locally, nationally and internationally. T2A has produced more than 40 reports and undertaken a number of projects across England demonstrating effective interventions for young adults.

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. 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 older adults, underpinned by the unique developmental maturation process that takes place in this age group.

The framework for T2A's work is the "T2A Pathway", which identifies 10 points in the criminal justice system where a distinct approach to young adults can be delivered, from point of arrest and including prosecution, sentencing, probation and custody.

T2A welcomes this consultation, in particular the emphasis within the questions of seeking to determine the underlying drivers of crime and to examine the wider role of public services, in addition to examining the effectiveness of the response of the justice system itself. Our response sets out the evidence that young adults (who we define as aged between 18 and 25) involved in the criminal justice system have distinct needs and makes suggestions for how future Labour policies and practices should recognise these needs, addressing the areas highlighted in the questions. Adopting these approaches will reduce the risk of young adults becoming both victims and/or perpetrators of offending behaviour. Rather than seeking to answer specific questions we address below the overarching areas highlighted in the questions.

We would welcome engagement with the Labour party to help shape further their detailed policy programme.

## **General principles**

Barrow Cadbury Trust and Members of the Alliance made a significant contribution to the Justice Select Committee inquiry on the treatment of young adults in the criminal justice system. The [resulting report](#) included a blueprint for a distinct strategic approach for young adults which we commend. The Committee concluded that:

Young adults offend the most but have the most potential to stop offending. They are resource intensive as they are challenging to manage. A strong case could be made for recognising that expenditure to make the system more developmentally responsive would pay dividends in reduced costs to the system in reducing incidents of violence and to society in reducing offending and the creation of further victims. (para 139)

The key components of the blueprint should include:

- Both age and maturity should be taken into significantly greater account within the criminal justice system. The rationale of the system for young adults should presume that up to the age of 25 young adults are typically still maturing;
- A clearly defined strategy with a coherent approach to defining age and consistent use of maturity assessments, which includes screening for mental disorders, neuro-disabilities and learning and communication needs;
- Governance arrangements which take account both of the distinct needs of young adults up to the age of 25 and of the importance of understanding the level of maturity of all young adults to treat them effectively in recognition of their individual circumstances;
- Improving the evidence base to test the potential benefits of a dedicated approach, including about the type of prison placements which best improve outcomes and about interventions in custody and in the community which work effectively to reduce offending;
- Training, information and assessment to ensure that prosecutors and sentencers have a sufficiently sophisticated understanding of maturity to weigh up how it may affect young adults' culpability;
- Providing developmentally appropriate services which take account of the developmental maturity and particular needs of this group, will mean that young adults are far more likely to 'grow out of crime' This means approaches which recognise that how young adults perceive, process and respond to situations is a function of their developmental stage and other factors affecting their maturity, and secondarily their culture and life experience;
- Navigating the system is particularly challenging for those with neuro-disabilities, neuro-developmental disorders, mental disorders and learning and communication needs, many of which co-exist and compound each other, and which are exacerbated by the trauma that many young adults have recently experienced;
- Relationships with trusted, credible, and understanding practitioners and with supportive families and other networks are of critical importance in comprehending as fully as possible the nature of young adults' risks and vulnerabilities and supporting them to stop offending and developing their resilience and maturity;
- A specialised approach should be taken to staffing prison and probation services work with young adults, underpinned by more in-depth training. This would enable stronger expertise to be developed effectively to address the behaviours typical of lack of emotional maturity, which includes impulsive, ill-considered actions and non- consequential decision making; and,
- A strategic approach should be adopted to collating and analysing existing data, developing the evidence base, identifying gaps in knowledge about how best to treat young adults, providing incentives to governors and probation services for devising and testing new approaches, and disseminating good practice.

***Future Labour policy should adopt the Justice Committee's blueprint for a strategic approach for young adults aged 18 to 25 in the criminal justice system.***

**The key drivers of criminality in young people**

Young adults, defined by T2A as individuals aged 18 to 25, represent around 10 per cent of the UK population but account for a third of those sentenced to prison and 30-40 per cent of cases involving police time each year.

There is a growing body of research which shows that many young adults have not yet reached the full maturity of adults, which can lead them to engage in risky behaviours. An irrefutable body of evidence from advances in behavioural neuro-science demonstrates that the typical adult brain is not fully formed until at least the mid-20s, meaning that young adults typically have more psychosocial similarities to children than to older adults. Those parts of the brain influencing maturity that are the last to develop are responsible for controlling how individuals weigh long-term gains and costs against short-term rewards. As the system to regulate 'reward seeking' is still evolving this affects how young adults judge situations and decide to act, including consequential thinking, future-oriented decisions, empathy, remorse, and planning. In typical brain maturation, temperance—the ability to evaluate the consequences of actions and to limit impulsiveness and risk-taking—is a significant factor in moderating behaviour and the fact that its development continues into a person's 20s can influence antisocial decision-making among young adults.

The characteristics of young adults who are involved in the criminal justice system, both as victims and as perpetrators, can provide a powerful illustration of some of the key drivers of criminality amongst this age group. Young adults involved in the criminal justice system have often themselves been victims of crime. Many have a history of being exposed to violence, including in the home, abuse, neglect, bereavement relating to the deaths of parents, siblings and other close relatives, and criminal behaviour by parents and siblings. These traumatic events have frequently occurred from a very young age and, as they remain young, the traumatic effects may be raw. Former looked after children frequently continue to struggle with family relationships, feelings of rejection and abandonment, and the loss of family members into their early twenties. The effect of trauma in childhood and adolescence compounds issues with maturation as those affected experience heightened levels of flight or fight reactions, and hence increased chances of risk-taking behaviour.

Another important consideration for young adults in the criminal justice system is the potential presence of atypical brain development. Those who persist in criminal behaviour into adulthood are more likely to have neuro-psychological 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. Some of these deficits, particularly ADHD and traumatic brain injury (TBI, an impairment to the brain from an external mechanical force) are associated with more violent offending.

***Future Labour policy should recognise the evidence base about typical and atypical brain development in young adults involved in the criminal justice system and develop both justice and social policy responses accordingly.***

### **The response of public services**

Each public service should seek to understand the circumstances of risky or offending behaviour and how that is likely to be impacted by the age and level of maturational development of the person involved. Distinction should be made between young adults with typical and atypical levels of maturity, neither of which are well-recognised by schools or criminal justice agencies. Any support or intervention provided in response should take an age-appropriate response.

### **Police**

The police should receive specific training for managing contact with young adults, particularly in relation to stop and search and, where possible, should seek to divert young adults into appropriate services away from the criminal justice process. The Police Foundation's report [Policing and Young Adults: developing a tailored approach](#) made a series of recommendations on how to achieve this, including a series of pilot projects to test ways in which the police could adopt a distinct approach.

### **Prosecution and defence**

Lack of maturity is now included in guidance to prosecutors after the evidence amassed by T2A was considered by the Crown Prosecution Service and Sentencing Council. T2A wishes to see this coupled with training for prosecutors in how to identify and consider maturity of an alleged offender when considering factors relating to culpability in prosecution decisions. Training on maturity should similarly be made available to defence lawyers.

### **Diversion and sentencing**

Given young adult offenders' complex needs and developing maturity and the impact of criminal records on future life chances, T2A would like to see more options for diversion from court. Several examples of dedicated schemes for young adults have been collated by the [Centre for Justice Innovation](#). Liaison and diversion schemes have been established across England to identify people who have mental health, learning disability, substance misuse or other vulnerabilities when they first come into contact with the criminal justice system as suspects, defendants or offenders. Nevertheless, there is a significant lack of provision of mental health, learning disability and substance misuse services to provide appropriate support, once these needs are identified.

Future Labour policy should build on the successes of the youth justice system in reducing entrants and the use of custody, including by developing dedicated diversion schemes for young adults. T2A member, the Centre for Justice Innovation, is leading a project to support police-led diversion schemes, including deferred prosecution, whereby a person accused of committing an eligible crime is given an opportunity to complete specified conditions (for example rehabilitative activity, reparation to the victim and/or unpaid work) instead of being prosecuted, without being required to admit guilt. Barrow Cadbury Trust are working with the Ministry of Justice to support a qualitative evaluation of the deferred prosecution pilot scheme 'Chance to Change'.

There is a need to review the approach taken in sentencing guidelines for young adults. T2A is concerned about ambiguities in sentencing guidelines, some of which provide for consideration of age and/or lack of maturity when looking at culpability and some which provide for it as a potential mitigating factor. T2A believes that there is a strong case for the Sentencing Council to consider overarching sentencing principles for young adults similar to the principles it has developed for children as outlined in the Howard League report [Judging Maturity](#) 2017 and [Sentencing Principles for Young Adults](#) 2019. Sentencers should be trained to understand the impact of lack of maturity on decision-making.

There is sufficient flexibility within the adult community sentencing framework to facilitate a distinct approach to young adults in the community without legislative change. Nevertheless, more creative use could be made of existing orders. Intensive Community Orders should be nationally available, tailored to the specific needs of young adults to achieve compliance and completion of sentence.

***Future Labour policy should increase the use of dedicated diversion schemes for young adults and, improve access to support for mental health, learning disabilities and substance misuse treatment through liaison and diversion schemes.***

## **Reforming the criminal records regime**

Enabling young adults to form non-criminal identities following their involvement in the criminal justice system will require a change in the treatment of their criminal records.

An urgent priority should be to address deficits in the regime for the disclosure of criminal records for young adults, which can act as a significant barrier to employment at a time when they are seeking to establish themselves independently and form non-criminal identities. Stable employment is a key aspect of this. David Lammy advocated a process for expunging records similar to the system for “sealing” criminal records that operates in Massachusetts, USA. Under such a system a judge or a body like the Parole Board would be able to decide on applications for records to be sealed, with a presumption that favourable consideration would be given to those who committed crimes as children or young adults who can demonstrate that they have changed since their conviction.

***Future Labour policy should change the scheme for the disclosure of criminal records, including, making it possible to expunge criminal records, providing incentives for employers to employ ex-offenders, and enabling deferred prosecutions.***

## **Dedicated courts and specialised sentencers**

The Centre for Justice Innovation (CJI) publication for T2A, [A fairer way: procedural fairness for young adults at court](#), indicates that young peoples’ perception of their sentencer has the largest influence on their views of the overall legitimacy of the justice system, even when controlling for the outcome of their case.

The Centre for Justice Innovation (CJI) examined for T2A the feasibility of dedicated courts delivering distinct arrangements for young adults without legislative change. They proposed that:

- All young adult cases could be allocated to specialist youth magistrates and judges who currently deal with 10 to 17-year olds and who are already eligible to hear adult cases.
- These courts could apply existing adult legislation but would receive pre-sentence reports with additional focus on levels of maturity and information about the context of the offence.
- The principles of ‘procedural fairness’ would be applied and sentencers would be made aware of disposals locally that would suit young adults (such as Attendance Centre Requirements, Intensive Community Orders, and involvement of mentors alongside supervision).

T2A would be keen to support the piloting of young adult courts.

In some jurisdictions, notably Germany, young adults can be sentenced either in the youth or the adult system in accordance with their maturity.

***Future Labour policy should explore the introduction of problem-solving approaches in the courts and dedicated courts for young adults.***

## **Probation**

Taking account of maturity should not simply mean a lesser sentence or a discount, but rather a wider range of options should be considered. An effective, holistic, wraparound support service tailored to the level of maturity should run alongside any statutory order to enable compliance and to address rehabilitation. This is particularly important for young people serving statutory orders

who are in the transition to adulthood and who move from management by the Youth Offending Service to adult probation.

There are good examples of distinct provision for young adults in many probation areas in England and Wales, but provision is patchy and often contingent on local 'champions' rather than mainstream practice. The re-creation of the National Probation Service and emphasis on reenergising the probation profession provides opportunities to rethink training and supervisory approaches. This should include adoption of T2A's guidance [Effective approaches with young adults: a guide for probation services](#) and the learning from Nacro's [Beyond Youth Custody](#) programme. Emphasis should shift from the existing managerialist approach to people who commit crime towards supporting self-actualisation and developing individuals' pro-social identities.

## **Prison**

Young adults are held in a range of prison establishments, some of which are dedicated YOIs for those aged 18-20, others which generally hold older young adults, and in mixed age establishments. Young adult prisoners are disproportionately more likely to engage in, and experience prison violence, and bullying and violence is an enduring and worsening problem both in YOIs and mixed institutions. T2A would like to see research conducted on different types of regime for young adults and outcomes for young adults of being held in that way.

Prisons should each develop a young adults' strategy. All prisons holding young adults should be able to articulate and reasonably demonstrate how they meet the distinct needs of this cohort across a range of key areas including; the identification and management of developing maturity and any associated needs; the implementation of a creative, innovative and engaging education, employment and purposeful activity offer that will inspire and motivate; the management of violence and challenging behaviour including consideration of strengths based and rewards focused approaches; sustaining and improving family relationships; meeting the specific needs of care experienced individuals and ensuring their rights to a statutory service for those who qualify; improving accessibility of information; and the identification and proactive management of trauma related conditions, mental health, learning and cognitive needs. Opportunities for regular involvement in prison forums should be available and promoted to young adults under equalities duties of each prison, under the category of age.

There should be specific consideration and resource for the positive and proactive management of those individuals making the transition from the youth to the adult estate and the specific difficulties and needs that can occur.

***Future Labour policy should ensure that public services, in particular criminal justice agencies, take an age-appropriate response to risky or offending behaviour by young adults. This will require professionals to receive training and guidance about maturational development and greater specialisation to enable practitioners to build up dedicated expertise in working with young adults. It will also require testing of new distinct approaches to working with young adults, particularly by the police, in courts and in prisons.***

## **Wider public services**

The criminal justice system is often seen as the default response to particular behaviours and the gateway to public services, for example, to provide drug, alcohol or mental health treatment or support to enter employment, which should have a role to play at an earlier stage.

The fact that the majority of young adults involved in crime are known to a range of statutory services, and most will have been engaged with them in some way as a child, should be the starting point for any Labour policy response. Understanding why this is the case will provide insight into how children's services should be strengthened to prevent people from 'slipping through the net' into the criminal justice system.

In addition, young adults reaching 18 can be in "double jeopardy" as they continue to be at high risk of reoffending but support services which can act as protective factors, such as mental health, education and youth offending services, fall away. T2A has found that youth to adult transitions between services are often turbulent and poorly planned which can exacerbate offending behaviour. For example, moving from care services to independent living; leaving school or further education; and moving from child and adolescent mental health or drug services to adult services. It is vital that this chasm is addressed. Services like CAMHS, for example, should have the flexibility to work with young people up to the age of 26.

These challenges are reinforced by restricted opportunities for young adults to gain financial independence. For example, a quarter of those aged 18 to 24 in the UK are not engaged in employment, training or education; 18 to 20 year olds have a lower minimum wage than those who are aged over 21; most young people under the age of 21 do not qualify for housing benefit; and 18 to 25 year olds are specifically excluded from receiving the 'living' wage. Finally, involvement in the criminal justice system can in itself hinder the transition to adulthood.

Over-representation of BAME young people in the criminal justice system exists within a wider pattern of multiple disadvantage in other areas of social policy. For instance, the Bradley Commission has noted that BAME communities tend to follow unduly 'coercive pathways' into mental health services via a CJS gateway. BAME young people, and those of mixed heritage in particular, are also over represented in the care system; and looked after children and care leavers are in turn over represented in prison, with a third of boys and 61% of girls in custody are, or have been, in care. This therefore represents a further area of combined disadvantage and a potential factor in driving people from BAME backgrounds towards the CJS.

BAME young adults face higher levels of deprivation and disadvantage which may make their offending and reoffending more likely. For example, young black men have the highest unemployment rate amongst young adults in the UK, with just under 50% being unemployed. BAME children are also more likely to be permanently excluded from school. Black people are also more likely to be diagnosed with a severe mental health condition, to access mental health services via the CJS and less likely to be supported through primary care and early interventions.

***Future Labour policy should include the creation of a coherent cross-departmental approach that seeks to remove structural barriers to gaining sustainable employment and affordable accommodation, for example, the lower minimum wage and housing and employment benefit entitlements. Statutory services which support children should have the flexibility to continue to support young adults for as long as is necessary for them to reach maturity.***

### **Public perception**

Any future Labour policy which seeks to promote rehabilitation rather than punishment should examine guidance created by the Frameworks Institute which outlines a set of practical framing recommendations for advocates working to build public support. A Citizen's Assembly approach would also lend itself well to better understanding public opinion.



*Future Labour rehabilitation policy should include a carefully considered narrative which is capable of engaging effectively with the public to shift public opinion about what constitutes an appropriate or effective criminal justice response. This should include better understanding public opinion through Citizen's Assemblies.*

### **Tackling underlying biases for people from a BAME background**

As the Lammy Review has highlighted, a disproportionate number of young adults in the criminal justice system are from BAME backgrounds. The specific impact of racism, discrimination and other unequal outcomes and experiences of young BAME men and women in relation to the experiences of young adults more generally, requires further research.

The substance of this part of our response is mainly drawn from the findings and recommendations of the [Young review](#) (conducted by Baroness Lola Young and funded by the Barrow Cadbury Trust) and other reports we have commissioned from Maslaha and the Centre for Justice Innovation.

BAME representation in the prison population is heavily influenced by age; there are many more young BAME male prisoners than older ones. In the adult estate, T2A is aware that this is highest for 18-20 year olds (39%) and 21-24 year olds (34%). In the youth estate, [youth justice statistics](#) show that BAME disproportionality is starker still, with over 45% coming from BAME backgrounds. While youth offending has dropped for the population as a whole it has increased for BAME young people. Particular attention must be paid to diverting BAME young people away from the criminal justice system to prevent this disproportionality transferring further into the adult system. The Ministry of Justice has estimated that the economic cost of black, Asian and minority ethnic (BAME) over-representation in our prison system is £234 million a year.

The reasons behind the disproportionate number of BAME men and women in prison are complex and not fully understood. In part, it is likely to be a reflection of the over-representation of this group at earlier stages of the CJS. The impact of decision making by statutory agencies including police, the Crown Prosecution Service, and courts is also likely to be a significant factor. Reoffending statistics by ethnicity are influenced by the disproportionate treatment of black people.

Given the range and complexity of factors involved, an effective response will require a coordinated approach involving a range of policy areas across government. The Centre for Justice Innovation report [Building Trust](#) highlights ways in which courts could improve the treatment of BAME individuals by the courts, and increase the trust of young black men in particular in the criminal justice process. A distinct approach to the sentencing of young adults, as outlined above, could contribute to addressing wider racial disproportionality in the justice system. We also endorse recommendations made by the Young Review (now EQUAL) to improve outcomes for BAME groups by incentivising providers to address disproportionate outcomes for BAME men and women and for dedicated resources to be provided to support community engagement and partnership working models in prisons.

Addressing this will also require further research. One area requiring further investigation is the potential role of unconscious bias and stereotyping in decision making by criminal justice agencies in the disproportionate outcomes for BAME offenders. For instance, in a report for T2A [Young Muslims on Trial](#)—a scoping study on the impact of Islamophobia on criminal justice decision-making—Maslaha suggests that distorted ideas about Islam may have an impact on criminal justice decision-making which has consequences for young Muslim defendants.



***Future Labour policy should focus on improving outcomes for BAME children and young adults. This should include both deepening understanding of racial disproportionality in the justice system and taking action to address it at all stages in the justice system and through wider social policy.***

***Future Labour policy should include further research into the role of unconscious bias and stereotyping in criminal justice decision making.***

#### **Co-production of policy with experts by experience**

With the support of Leaders Unlocked, T2A has established a young adult advisory group which allows young adults to get involved and have their say about policing and criminal justice at the national level. The advisory group enables young adults to support, challenge and inform the work of the T2A. The group would be pleased to work with Labour to develop its future approach to justice policy for young adults.

***Future Labour justice or social policy developed to respond to crime should include in its creation 'experts through experience'.***