

## **Submission to the Independent Review into Deaths in Custody of Young Adults (aged 18-24) by Frances Done CBE.**

Please note that this is a personal submission and does not represent the views of any organisation.

The purpose of this welcome Review is to make recommendations to reduce the risk of future self inflicted deaths by 18-24 year olds in custody. The Review questions quite rightly focus on areas very specific to the identification and management of vulnerable young adults in custody; information sharing and communication; and training and family support. But as recognised in the Review introduction there are other areas of policy and practice which impact on the potential for young adults in custody to self harm.

My submission addresses one of these areas, namely the need to develop a distinct approach to 18-20 year olds in the criminal justice system.

### **Context**

Young adults, aged 18-24, who constitute less than 10% of the population, are disproportionately involved in the criminal justice system. They make up more than one third of those commencing a community or suspended sentence order; one third of the probation service's caseload, and almost one third of those sentenced to prison each year.

Yet young adults are the most likely age group to desist and grow out of crime, and the wrong ( or no) intervention can extend the period that a young adult is involved in the criminal justice system. The peak age for offending is 19 and the peak age for desistance is 24.

Of this group those aged 18-20 are the least able to cope with the lack of a distinct approach to their supervision and support, often having recently left behind the much more coherent youth justice system which provides a specialist and comprehensive approach to under 18s in the community and in custody.

### **Why do things need to change?**

- Neurological research has identified that brain development continues into early adulthood and the human brain is not 'mature' until the early to mid twenties. So the response to 18-20s in the criminal justice system needs to be different to that for adults
- This age group has the highest re-offending rate from custody of all adult age groups namely 56%. (ref 1)

- there are serious concerns about the incidence of self harm and death in custody in relation to this age group
- approaches to this age group in other areas of government policy have moved on. For example the participation age for learning is being raised to 18 and the DfE has raised the age to which foster care for Looked After Children must be provided from 18 to 21 (or in some cases later).
- We know that young people who are not in education or employment are 20 times more likely to commit a crime yet only around 5% of young adults in custody surveyed by HMI Prisons spend 10 or more hours a day in purposeful activity.
- An evaluation of three Transition to Adulthood Alliance projects working with young offenders in the community and prior to release from prison demonstrated that they had more positive outcomes than those without tailored support.
- The costs of custody for this age group is significant. The cost per place is in the region of £40,000 pa. There were 6272 18-20 year olds in custody at 30th September 2013. (ref 2) While the numbers in custody have been reducing (in part due to the reduced numbers in the youth justice system) this represents a substantial financial burden whilst resulting in a re-offending rate post custody of 56%.

### **Current arrangements for 18-20 year olds**

Under current arrangements, depending on the nature of their sentence, 18-20 year olds are supervised by the Probation Service. There are no mandated special approaches to the 18-20 age group although some local areas have adopted local partnership approaches and the Transition to Adulthood Alliance – a coalition of 13 leading criminal justice, health and youth charities - has been encouraging new approaches at local level. Some local developments focussing on 18-20 year olds, or wider young adult age groups have been established and these have also been encouraged by recent work on Transitions at 18 led by the Youth Justice Board and the Probation Service in an attempt to improve the response to young people making the transition from the youth justice system to the adult system.

However there is no effective national leadership, or commissioning function, for this age group exercised at national level by either NOMS or the Ministry of Justice resulting in an inadequate response to the needs of this group.

In prisons the number of specialist Young Offender Institutions (YOIs) for 18-20 year olds has been reduced and the government recently consulted on proposals (*Transforming the Management of Young Adults in Custody*) which have resulted in many of this age group being placed in adult prisons without any guarantee of specialist provision and support, including education,

training and resettlement support.

The absence of overarching national leadership which 'joins up' the commissioning of services for 18-20 year olds across community and custody means that there is no capacity to deliver the crucial work with a wide range of national stakeholders which is essential to the delivery of effective and distinctive end to end supervision and support based on each young adult's individual needs and risks.

## **Comparison with youth justice**

The key features of the youth justice system which have been associated with the delivery of a substantial reduction of first time entrants; a greater than 50% drop in numbers in custody; improved safeguarding in custody and a major reduction in costs are;

- national leadership by an arms length body – the Youth Justice Board for England and Wales (YJB) which advises Ministers and monitors the youth justice system
- a statutory duty for local authorities to coordinate an effective multi agency team (a youth offending team) which focusses on young people in the justice system
- a statutory duty on partner agencies including police, probation, and health to cooperate and provide staffing/funding
- the YJB commissions the secure estate for young people under 18 and places young people sentenced by the court into the secure estate.
- the promotion of innovation and the dissemination of effective practice by the YJB

## **What should we want to achieve in relation to 18-20 year olds?**

There needs to be a relentless focus on

- reducing the numbers of 18-20 year olds in the criminal justice system
- reducing the re-offending rate for 18-20 year olds
- reducing the number of victims of 18-20 year olds
- reducing the use of custody for 18-20 year olds
- reducing the rate of self harm by 18-20 year olds and the number of self inflicted deaths in custody by this group

## **What needs to change?**

In a series of research and policy documents and pilot schemes the Transition to Adulthood Alliance has made a major contribution to the debate about the approach to young adults in the justice system. This has all informed thinking about what needs to change. Taking account of this work

and also the learning from 15 years experience of the youth justice system it is clear that the following are needed for results to improve significantly for the 18-20 age group;

- a completely distinct approach to the age group
- extension of the remit of the YJB to 18-20 year olds
- potentially a statutory duty for local authorities to support 18-20 year olds in the justice system, in partnership with police/PCCs, probation, health, voluntary and community organisations and other partners.
- recognition that a specialist approach to this age group would be developed locally in the context of existing partnerships in a way which makes sense in each local area – i.e. not necessarily by the establishment of specific 18-20 multi agency teams or by extending the remit of Youth Offending Team. The latter approach would risk a loss of focus on children in the justice system.
- recognition of an individual's maturity in approaches to
  - diversion (including triage at point of arrest and restorative interventions)
  - prosecution (building on current CPS guidelines)
  - sentencing (specialist sentencing framework)
- the introduction of a national framework for provision of intensive alternatives to custody (on the lines of pilots already undertaken which achieved a 56% compliance rate) (ref 3) particularly focussed on 18-20 year olds charged with non violent offences
- the YJB to commission the secure estate provision for 18-20 year olds through service level agreements with NOMS (as with under 18s) which would be separate both from provision for young people under 18 and from adults.
- development of secure college provision for the age group including job related training, preparation for work and wrap around resettlement support
- placement of 18-20 year olds in custody to be the responsibility of the YJB on the basis of assessed needs and risk similar to the approach used for under 18s, rather than via the current NOMS 'Population Management' allocation system

### **How would it work?**

With an extended remit the YJB would provide national leadership, guidance and support to local areas working closely with national stakeholders including local government, probation, police/PCCs, courts, CPS, health services, NOMs and the voluntary and community sector which has a great deal to offer in this area of provision. Pilot projects would be supported and continued dependent on outcome; models for provision of intensive

alternatives to custody would be rolled out and progress towards the objectives monitored. In the longer term there is the potential to devolve, by agreement, custody budgets to local level. YJB would lead the work with the Ministry of Justice and government departments more widely to fight the corner of 18-20 year olds in developing new approaches, influencing legislation where required, and identifying new funding streams – all activities undertaken by the YJB in relation to under 18s.

The potential benefits of YJB system leadership in relation to the commissioning of the secure estate provision for 18-20s lie in the specialist focus and drive which would be brought to bear. In relation to custodial provision for this age group the YJB could;

- develop a specialist placement function which takes into account both the needs of and risks associated with each individual young adult
- focus consistently on improving the safeguarding aspects of the regime and giving this the highest priority
- holding secure providers (at this stage NOMS) to account for providing a carefully specified regime focussing on education, training and resettlement
- develop over time secure college provision including education, training and resettlement support
- enable a careful transition between under 18 and 18-20 provision especially for the most vulnerable young people in custody. This is a key element in reducing the risk of self inflicted death in custody for 18-20 year olds

It is very hard to believe that the important changes in policy and practice that are likely to be recommended by the Independent Review can be introduced under the current arrangements for the management of 18-20 year olds in custody by NOMS. Recent changes for this group within the prison system have resulted in a **reduced** focus on the specific needs of this age group. A transfer of system leadership both of community and custodial provision to the YJB provides the opportunity to reverse this trend and the potential for significant progress with the age group, including a reduction in the use of custody and improving the safeguarding of those who are held in the secure estate.

## **Financial implications**

There would be a need for some additional funding for the YJB to develop its leadership role in relation to 18-20 year olds. This would involve augmenting the small regionally based teams which currently support Youth Offending Teams (but which already work with the same partners as are involved with 18-20 year olds) and staff to work at national level with government and key

stakeholders.

The costs of supporting 18-20 year olds in the community are currently in the budgets of the probation service and the costs of custody are in the budget of NOMs. These budgets would need to be transferred locally to the new partnership arrangements for 18-20s in relation to community provision and centrally to the YJB in relation to custodial provision.

There would be a need for start up funding to encourage innovation particularly in relation to diversion/ triage, more focussed support for 18-20 year olds assessed as in need of special support, and introducing intensive alternatives to custody. However the anticipated reductions in the custody budget over a five year period could be expected to cover these costs.

Detailed financial planning would have to be done if the YJB remit were to be extended in this way, but it is not unreasonable to suggest that the additional costs required to deliver a distinct approach to 18-20 year olds could be justified by the potential savings.

The Barrow Cadbury Trust sponsored research into the economic benefits of the previous T2A pilots provides detailed assessment of the 'break even' points in relation to investment in community provision for the young adult age group(ref 4). This analysis supports the potential of the proposed approach and investment in this age group.

### **Why not apply this approach to the whole young adult age range (18-24)?**

It can be argued that part of the reason that the YJB has been able to make progress with youth justice has been the ability to focus on a relatively small group of young people. This group is now very much smaller than at the passing of the Crime and Disorder Act 1998. It is very important that the YJB does not lose its focus on children under 18, while using the benefit of its experience and approach to benefit a wider group. This is one reason why extending the remit to just 18-20 year olds makes sense at this stage. In addition this is the group of young adults where issues of (lack of) maturity and vulnerability can be of greatest impact in how they cope with and respond to the justice system. For that reason the 18-20s may be the group where most can be achieved through a distinct focus if the current arrangements are to be changed.

Frances Done CBE  
7 July 2014

## References

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