

Prison Reform Trust briefing

House of Lords, 29 October 2015



“Lord Harris of Haringey to move that this House takes note of the case for taking action to address the problems of young men and women before they enter the criminal justice system, to reduce the prison population, to improve conditions within prison, and to focus on the rehabilitation of prisoners as set out in “The Harris Review: Changing Prisons, Saving Lives.”

Who we are

The Prison Reform Trust is an independent UK charity working to create a just, humane and effective prison system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for prisoners and their families.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families.

www.prisonreformtrust.org.uk

Introduction

The Prison Reform Trust welcomes the publication of Lord Harris’ Review of Deaths of Young Adults in Custody. The review shows how too many vulnerable young people are slipping through the net of mental health and welfare services and ending up behind bars. Very many of the tragic deaths described in the review could have been prevented by thorough assessment and intervention at an earlier stage in these young peoples’ lives. Time and again this is what bereaved families say after struggling for years to get the help they need.¹

The Prison Reform Trust’s 2012 report with INQUEST, *Fatally Flawed*,² which led to the establishment of the review, documented the vulnerabilities of many young people in conflict with the law. It illustrated how such young men and women were placed in unsafe institutions that were ill-equipped to deal with their complex need. The Prison Reform Trust is a member of the Transition to Adulthood (T2A) Alliance and has a longstanding interest in the treatment of young adults in the justice system. In 2004, drawing on information supplied by independent monitoring boards,

¹ For further information see the Prison Reform Trust’s submission to the Harris review <http://www.prisonreformtrust.org.uk/Portals/0/Documents/PRT%20submission%20to%20the%20Harris%20Review.pdf>

² Prison Reform Trust and Inquest (2012) *Fatally Flawed*, London: PRT and Inquest. Available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fatally%20Flawed.pdf>

we produced a report *A lost generation*³ which revealed how good intentions had not led to effective practice in establishments across England and Wales and presented clear recommendations for reform. Our 2012 report *Old Enough to Know Better*⁴ called for a more focussed and intensive approach to rehabilitating young adult offenders including investment in, and promotion of, intensive alternatives to custody. Our independent Care review,⁵ chaired by Lord Laming, is currently considering the reasons behind, and how best to tackle, the over representation of children in care who have become caught up in the criminal justice system in England and Wales.

Prison as a last resort

The Prison Reform Trust welcomes the recommendation of the Harris review that prison should be a last resort and that more could be done to divert vulnerable young adults from the criminal justice system (Recommendation 41). In 2012, the Prison Reform Trust and INQUEST published *Fatally flawed*, a report which revealed common themes in the experience and treatment of 98 children and young people who had died in prison between 2003 and 2010. These overlapping findings showed that they:

- were some of the most disadvantaged in society and had experienced problems with mental health, self-harm, alcohol and/or drugs;
- had significant interaction with community agencies before entering prison yet in many cases there were failures in communication and information exchange between prisons and those agencies;
- despite their vulnerability, they had not been diverted out of the criminal justice system at an early stage and had ended up remanded or sentenced to custody;
- were placed in prisons with unsafe environments and cells;
- experienced poor medical care and limited access to therapeutic services in prison;
- had been exposed to bullying and treatment such as segregation and restraint; and
- were failed by the systems set up to safeguard them.

Young adults in trouble with the law often have high levels of complex need and are from backgrounds of great disadvantage. Young adult offenders frequently have few or no educational qualifications, and no experience of work. A large proportion are care leavers. They also suffer from poor mental health, and alcohol and drug misuse problems. These are often even more acute during someone's transition to adulthood, as child-focused support services - such as care services, child and adolescent mental health services, children's services and youth offending services—fall away when they reach the age of 18.

³ Solomon, E (2004) *A lost generation*, London: Prison Reform Trust. Available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Lost%20Generation.pdf>

⁴ Prison Reform Trust (2012) *Old enough to know better?* London: Prison Reform Trust. Available at <http://www.prisonreformtrust.org.uk/portals/0/documents/oldenoughtoknowbetter.pdf>

⁵ See <http://www.prisonreformtrust.org.uk/ProjectsResearch/CareReview>

The Prison Reform Trust made the following recommendations to improve arrangements for the treatment of vulnerable young adults in the justice system as part of its submission to the Harris review. First, systems for the early identification of young people in need of help who are also in contact with the criminal justice system need to exist, universally, so there is always an opportunity to divert such young people to specialist services that have a chance of addressing their underlying needs. Liaison and diversion services in police stations and courts are a promising example of such an approach. The Prison Reform Trust congratulates the Government on its initial investment and would recommend that full national roll-out of services is expedited. Services will need to be designed to include within their provision a distinct approach to young adults, including assessing for the range of vulnerabilities prevalent among this age group (eg brain injury and emerging mental illness).

Second, care needs to be taken over the decision to prosecute young people exhibiting symptoms and characteristics of vulnerability, so that such prosecutions are considered decisions. The Crown Prosecution Service's 'Code for Crown Prosecutors' should be amended expressly to allow Prosecutors to consider the specific interests and needs of young people aged 18-24 when deciding whether prosecutions will be in the public interest.

Third, maturity should be taken fully into account as part of the sentencing process. The recognition of 'lack of maturity' as a mitigating factor in adult sentencing guidelines should be built upon through the development of overarching principles for the sentencing of young adults (18-25), modelled on the overarching principles for young offenders. Young adults (18-25) should be subject to a full pre-sentence report for indictable offences, which specifically takes account of their level of maturity, as recommended by the Harris Review.

Lastly, imprisonment needs to be used as a last resort, when all other community-based sentencing options have been exhausted and only custody is justified. Where community options ought to be made available but have not immediately been identified, the judiciary should require the National Probation Service to explain such gaps in services before sentencing. A system for recording such shortfalls and raising this issue periodically with the new Regional Directors should also be put in place.

A distinct approach to young adults

The Prison Reform Trust welcomes Lord Harris' recognition of the need for a distinct approach to young adult offenders and for legal recognition of the concept of maturity (Recommendation 46). The evidence produced by the T2A programme has shown that a young adult's 'developmental maturity' should be taken into account throughout the criminal justice process, and should be regarded as at least as important as their chronological age.⁶ This is necessary because variation in maturity may be directly related to offending and the ability to comply with statutory requirements, such as community sentences.

⁶ See <http://www.t2a.org.uk/>

In addition, young adults are the most likely age group to desist and "grow out of crime". Between the ages of 18 and 25, the focus should therefore be on encouraging desistance from crime and supporting the factors which reduce criminal behaviour, such as employment, housing and good health.

A distinct approach to young adults has the potential to yield social and economic gains through better outcomes for this age group and a reduction in the numbers entering custody. Much can be learnt from the recent experience of the youth justice system, which has succeeded in improving outcomes and reducing first time entrants into the system.⁷ Rates of offending by children have also fallen. It is encouraging that the number of young adults in custody has fallen by 42% in the last six years, partly as a consequence of there being fewer younger offenders both entering the criminal justice system and being sentenced to custody.

The T2A pathway developed by the Transition to Adulthood (T2A) Alliance identifies ten stages of the criminal justice process at which effective interventions for young adults can be delivered by statutory agencies and service providers.⁴ Six projects (led by ADVANCE, Remedi, Together, The Prince's Trust, Pact and Addaction) are demonstrating how multiple interventions might be commissioned and delivered across a whole 'pathway'. This model presents an opportunity for statutory agencies, including police, Police and Crime Commissioners, prisons and probation services, to work across the young adult pathway to ensure effective responses and interventions for this group.

A better response to care leavers

The Prison Reform Trust welcomes the recommendation made by the Harris review that NOMS should develop its work on care leavers to ensure progress through custody for care leavers is properly recorded, researched and improved (Recommendation 38). It is important that justice services identify care leavers and enable them to access all the support they are entitled to under the Children (Leaving Care) Act 2000.⁸ Just 1% of children are looked after by local authorities, but those in care make up 33% of boys and 61% of girls in custody. Although precise figures are not known because care leavers are not always identified within the criminal justice system, it is estimated that 24% of the adult prison population were in care as a child (24% for men and 31% for women).

Care leavers face particular challenges as they move towards adulthood due to their childhood experience of trauma, poor or absent support from families and their experience of living in institutions or foster care. They are more likely to be attempting to live independently from a young age and less likely to be in education, training or employment than other young adults. However, they are entitled to practical and financial support from local authorities. Despite these statutory obligations, the Review "struggled to find out – notwithstanding numerous queries made to both the Local Government Association and Welsh Local Government Association - what support the young adults in custody should be and are getting from local authorities, particularly in terms of 'corporate parenting'." (Para 4.55)

⁷ Allen, R (2011) Last resort? exploring the reduction in child imprisonment 2008-11, London: Prison Reform Trust. Available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/lastresort.pdf>

⁸ For more information see <http://www.prisonreformtrust.org.uk/ProjectsResearch/CareReview>

Improving conditions in prison

The Prison Reform Trust welcomes the recognition by the Harris review that the management of young adults is distinct from the management of the older prison population (Recommendation 26). We also welcome the acknowledgement of the review of the need for a purposeful and constructive regime for young adults supported by sufficient numbers of appropriately trained staff (Recommendations 2 & 26).

Young adults in custody have distinct needs and vulnerabilities, and present particular challenges, born of their youth and immaturity. They are open to influence, both good and bad, which means that any decent prison system must provide an environment and regime that takes full account of their age and stage. This approach is needed to maximise the chances of effective rehabilitation in what in many instances will be a first term of imprisonment for young and immature people.

To support this, the Prison Reform Trust believes the following actions are required:

1. Young people ages 18-20 should be accommodated separately from adult prisoners.
2. A distinct regime should be developed, with particular emphasis on:
 - a full programme of purposeful activity led by specifically trained staff;
 - reliable access to specialist services to meet assessed health and wellbeing needs;
 - the provision of robust sentence management plans;
 - a strong focus throughout their period in custody on resettlement; and
 - the availability of an effective personal officer scheme and family liaison programme.
3. This regime should be supported by the introduction of a specific Prison Service Instruction or Instructions (PSI).
4. The sentence of Detention in a Young Offenders Institution (DYOI) should be retained and strengthened.

Current provision in custody

The number of young adults (aged 18–20) in prison in England and Wales has fallen by 42% in the last six years. On 30 June 2015 there were 5,050 young adults in prison. Despite this welcome reduction, the Inspectorate has cautioned that those who remain in custody are “some of the most vulnerable, troubled young adults with complex needs”.⁹

Although notionally there is distinct provision for 18-20-year-old young adults in custody in England and Wales, this has been diluted by the lack of a centrally driven strategy, an inconsistency in approach across the estate, insufficient staff training

⁹ HM Chief Inspector of Prisons (2015) Annual Report 2014-15, London: The Stationery Office

and development and an erosion of the distinct provision that the YOI regime was intended to provide. In its consultation on Transforming the Management of Young Adults in Custody, the government put forward proposals to abolish the DYOI sentence – the only statutory foothold and safeguard for young adults in custody. The consultation was put on hold pending the findings and recommendations of the Harris review.

In recent years, there has been a move to hold young adults in prisons with adult prisoners, particular in London and South East England, following the decision to no longer hold remanded young adults in Feltham YOI. There are now 53 dual-designated prisons which are allowed to hold young adults together with adults (aged 21+).

Since 2012, the National Offender Management Service (NOMS) commissioning intentions have outlined the distinct needs of young adults as well as some of the programmes needed to address these. The recent NOMS report *Achieving Better Outcomes for Young Adult Men Evidence Based Commissioning Principles*¹⁰ provides further guidance to commissioners on which approaches are most effective at addressing the specific needs of young adults.

Despite these positive developments, the findings of the HM Inspectorate of Prisons annual report 2014-15 reveal that neither mixed nor dedicated establishments are meeting the needs of young adults. Overall, outcomes for young adults were poor in both dedicated and mixed establishment across key indicators for purposeful activity, safety and respect (see Appendix One). Indicators for purposeful activity were particularly poor with young adults having the least time out of cell of all prisoners. 36% that they had less than two hours out of their cell on a weekday, and only 6% said they had over 10 hours.¹¹

The Inspectorate found that dual designated HMP/YOI prisons, particularly local prisons, are struggling to cope with the introduction of young adults into their populations. Young adults are significantly over-represented in violent incidents, adjudications and the use of force by staff. The inspectorate found that many integrated prisons have no strategy to manage this distinct group. Staff in integrated prisons had generally not been trained in managing this group and often did not take their levels of maturity into account when addressing the reasons for the increase in violence.

The HMIP annual report also found that prisoners in dedicated young adult establishments said they felt even less safe than in prisons where they were integrated with adults, and that dedicated prisons were generally less safe than integrated prisons with high levels of violence. The Prison Reform Trust acknowledges the existing problems in dedicated and mixed young adult establishments and does not underestimate the challenges involved in managing this age group. Nonetheless, a distinct regime for young adults, with additional resources, underpinned and protected in statute, is one that we would wish to see continue and develop. Existing weaknesses do not justify scrapping the model;

¹⁰ See <https://www.gov.uk/government/publications/achieving-better-outcomes-for-young-adult-men-evidence-based-commissioning-principles>

¹¹ Ibid.

rather, they point to the need to redouble efforts to make the model work as it was intended to do.¹²

Managing vulnerability, health and mental health

The Harris review makes substantive recommendations for improving arrangements for the management of vulnerability, health and mental health (Chapter 4). The Prison Reform Trust's joint report with Inquest *Fatally Flawed* identified poor information flow and communication between community and statutory agencies and prisons (and vice versa) as key factors behind the deaths of children and children in custody.¹³ We agree with the findings of the Harris review and support recommendations for improved information exchange within custodial establishments and between criminal justice and other agencies. We also strongly endorse the recommendation that families should be included, where appropriate, as a central component of the management and care of young people in custody.¹⁴

Leadership

The Prison Reform Trust welcomes the recommendation made by the Harris review to improve national leadership and accountability for young adults (Recommendation 16). It is vital to improve leadership at a national level to drive improvements in the treatment of young adults in the justice system. We welcome the appointment of a Deputy Director of Custody for Young People within NOMS, as a senior lead on operational policy on young adults. We would like to see consideration given to how leadership and accountability could be improved at a political level. For instance, the appointment of a separate minister for female offenders, with responsibility across government departments, is helping to improve responses to women's offending and drive reform.

HM Inspectorate of Prisons and the Prison (HMIP) and Prison and Probation Ombudsman (PPO)

The Prison Reform Trust supports the recommendation that responsibility for the oversight of HMIP and PPO should be transferred from the Ministry of Justice to Parliament (Recommendation 92). This would protect the independence of the organisations and improve arrangements for accountability and the transparency of appointments. The Justice Committee could be responsible for setting budgets and appointing the respective heads of the organisations, similar to the role performed by the Public Accounts Committee in its oversight of the National Audit Office. We also support the recommendation that the office of the PPO should be placed on a statutory footing and should be afforded appropriate powers to compel witnesses and require the production of documents (Recommendation 95).

¹² For further information see the Prison Reform Trust's submission to the Ministry of Justice's consultation on Transforming the Management of Young Adult Offenders in Custody <http://www.prisonreformtrust.org.uk/Portals/0/Documents/PRT%20submission%20-%20Transforming%20management%20of%20young%20adults%20in%20custody.doc>

¹³ Prison Reform Trust and Inquest (2012) *Fatally Flawed*, London: PRT and Inquest. Available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fatally%20Flawed.pdf>

¹⁴ For further information see the Prison Reform Trust's submission to the Harris review <http://www.prisonreformtrust.org.uk/Portals/0/Documents/PRT%20submission%20to%20the%20Harris%20Review.pdf>

Appendix one – key statistics on young adults

The number of young adults (aged 18–20) in prison in England and Wales has fallen by 42% in the last six years. On 30 June 2015 there were 5,050 young adults in prison.¹⁵

The number of young adults sent to prison under sentence is falling. 7,308 young adults entered prison in 2014, nearly half the number in 2009.¹⁶

And so is the number sent to prison to await trial. 4,783 entered prison in 2014, a drop of 42% since 2009.¹⁷

Despite this welcome reduction, the Inspectorate has cautioned that those who remain in custody are “some of the most vulnerable, troubled young adults with complex needs”.¹⁸

More than two-fifths (43%) of young adults are in prison for violence against the person or robbery. One third are there for a theft or drug offence.¹⁹

There are 114 young adults currently in prison serving an indeterminate sentence. The majority (91) are mandatory lifers.²⁰

Treatment and conditions

There are now 53 dual-designated prisons which are allowed to hold young adults together with adults (aged 21+).²¹

Two-thirds of young adults think most staff treat them with respect—compared with three-quarters of adults (77%).²²

Young adults have the least time out of cell of all prisoners. 36% that they had less than two hours out of their cell on a weekday, and only 6% said they had over 10 hours.²³

None of the young adult prisons inspected this year was assessed positively against all four of the Inspectorate’s healthy prison tests. None received the highest rating of ‘good’ in any of the four areas.²⁴

¹⁵ Table A1.1, Ministry of Justice (2015) Offender management statistics, Prison population 2015, London: Ministry of Justice

¹⁶ Table A2.1, Ministry of Justice (2015) Offender management statistics, Prison receptions 2014, London: Ministry of Justice

¹⁷ Ibid.

¹⁸ HM Chief Inspector of Prisons (2015) Annual Report 2014-15, London: The Stationery Office

¹⁹ Table A1.3b, Ministry of Justice (2015) Offender management statistics, Prison population 2015, London: Ministry of Justice

²⁰ Table A1.13, Ibid.

²¹ Hansard HC, 9 July 2014, c326W

²² HM Chief Inspector of Prisons (2015) Annual Report 2014-15, London: The Stationery Office

²³ Ibid.

²⁴ Ibid.

Safety in custody

There have been 52 self-inflicted deaths of young adults in custody in the last 10 years—six were in 2014, all of them young men.²⁵

Young adults account for 13% of all self-harm incidents although they represent 7% of the population in custody.²⁶

Two-fifths of young adults reported feeling unsafe at some point whilst in custody.²⁷ More than one in 10 young adults (13%) surveyed said they had experienced some form of physical abuse from other prisoners.²⁸

A similar proportion (10%) said staff had physically abused them—more than a third said they had been victimised by staff.²⁹ The chief inspector of prisons found that local prisons in particular have struggled to cope with the introduction of young adults, who are over-represented in violent incidents and the use of force by staff.

However, safety is generally worse in dedicated young adult prisons than integrated ones. Fewer people said they felt safe and they had higher levels of violence.³⁰

Only a third of young adult men (35%) said that, if they wanted to, they were able to speak to a Listener at any time—compared with half of adult men (52%).³¹

Drugs and alcohol

One in three young adults reported having a drug problem when they arrived into prison.³²

15% of young adults reported arriving into prison with an alcohol problem—however these figures almost certainly underestimate the scale of the problem, as many of those with alcohol problems will fail to recognise or acknowledge them.³³

19% of young adults said they had children themselves. This compares to 4% of the general population who are young fathers.³⁴

16–24 year-olds are more likely than any other age group to become a victim of crime.³⁵

²⁵ Table 1.6, Ministry of Justice (2015) Safety in custody statistics quarterly update to March 2015, London: Ministry of Justice

²⁶ Table 2.3, Ministry of Justice (2014) Safety in Custody Statistics Update to March 2014 - Self harm in prison custody 2004 to 2013, London: Ministry of Justice and Table A1.1, Ministry of Justice (2014) Offender Management Statistics Prison Population 2014, London: Ministry of Justice

²⁷ HM Chief Inspector of Prisons (2015) Annual Report 2014-15, London: The Stationery Office

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Ministry of Justice (2012) Prisoners' childhood and family backgrounds, London: Ministry of Justice

³⁵ Table D1, Office for National Statistics (2014) Annual Trend and Demographic Tables - Crime in England and Wales, Year Ending March 2014, London: ONS

Young people who are not in education or employment are twenty times more likely to commit a crime. 47% of young people aged 17–24 were in education, training or employment at the time of their arrest.³⁶

³⁶ Young People in Focus (2009) Young Adults Today: Education, Training and Employment, London: Young People in Focus