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Transitional Safeguarding

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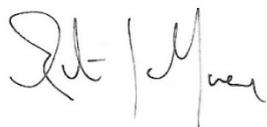
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Foreword

HM Inspectorate of Probation is committed to reviewing, developing and promoting the evidence base for high-quality probation and youth offending services. *Academic Insights* are aimed at all those with an interest in the evidence base. We commission leading academics to present their views on specific topics, assisting with informed debate and aiding understanding of what helps and what hinders probation and youth offending services.

This report was kindly produced by Dez Holmes and Lisa Smith, providing an overview of the concept of Transitional Safeguarding which argues for a more fluid non-binary approach to safeguarding, recognising that the transition to adulthood is a process that continues beyond an 18th birthday, and that many harms and traumas do not stop at this age. Attention is also given to the transition points and gaps between the safeguarding system/s and the justice system/s, recognising that the respective populations overlap considerably. A holistic framework is applied, underpinned by six interconnected and interdependent principles, highlighting the importance of an approach which is evidence-informed, ecological/contextual, developmentally-attuned, relational, equalities-orientated, and participative. Building upon these principles, a range of helpful considerations are set out in relation to individual practice, services and workforce, strategic partnerships, and policy. Crucially, practice cannot be expected to change in a vacuum; the systems and policy landscape within which practitioners are working needs to continue to evolve to enable effective support for young people.



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The views expressed in this publication do not necessarily reflect the policy position of HM Inspectorate of Probation.

1. Introduction

This Academic Insights paper focuses on the concept of Transitional Safeguarding and is aimed at professionals and policy makers working within the youth and criminal justice systems, whether in direct practice or those leading local and/or national systems.

Transitional Safeguarding is described as:

'An approach to safeguarding adolescents and young adults fluidly across developmental stages which builds on the best available evidence, learns from both children's and adult safeguarding practice, and which prepares young people for their adult lives'

(Holmes and Smale, 2018).

Transitional Safeguarding offers a critique of the current binary safeguarding systems for young people under and over 18, and argues for a more fluid approach which responds to the person's dynamic developmental needs. Here, 'young people' or 'youth' is loosely defined as mid-teens to mid-twenties, in keeping with the United Nations definition (UN, 2020) and recognising that a rigid age-bound definition would be counter to the intention of Transitional Safeguarding (Holmes, 2022a).

Transitional Safeguarding is not a prescriptive model, instead it is an overarching approach informed by key principles and designed to respond to local context (Cocker et al., 2021a). Importantly, the term encompasses activity that exists outside of the traditional definitions of both 'transitions' and 'safeguarding':

- the former is often narrowly interpreted as transition between children's and adults' services, for example, transitions services for young people with disabilities, rather than encompassing a broader understanding of transition into adulthood
- the latter can be interpreted in a way that focuses on eligibility for adult social care services (described as 'care and support needs'), to the extent it can undermine preventative and needs-led approaches (Office of the Chief Social Worker for Adults, 2021).

Adolescence and emerging adulthood can be a time when harms outside the family home, sometimes referred to as extra-familial or 'contextual' harms, are particularly relevant. These harms, which include some forms of exploitation, often exist at the intersection between safeguarding and community safety or law enforcement (Firmin, 2020). Although not the only driver for Transitional Safeguarding, increased understanding of criminal exploitation has prompted calls for a more integrated response to young people who are both at risk of harm and in conflict with the law (ADCS, 2021a).

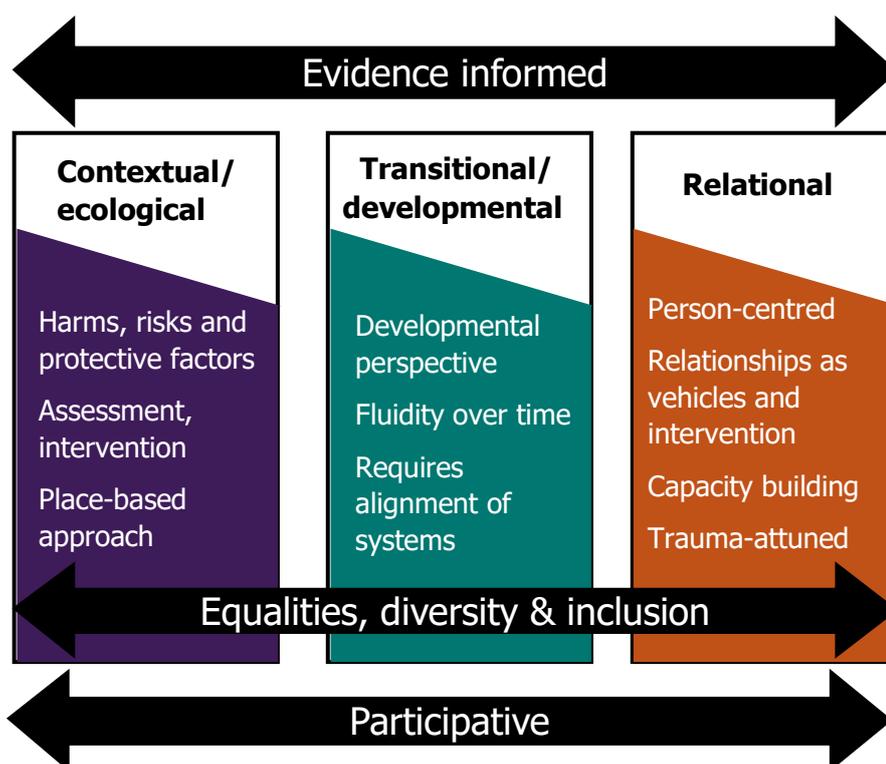
Accordingly, Transitional Safeguarding considers not only the transition between childhood and adulthood, but also the transition points and gaps between the safeguarding system/s and the justice system/s. This Academic Insights paper will therefore pay particular attention to issues of exploitation.

Transitional Safeguarding is relevant to [County Lines](#), [trauma-informed practice](#) and [Contextual Safeguarding](#); there are Academic Insights papers on these topics which complement this paper on Transitional Safeguarding.

2. Transitional Safeguarding – principles, rationale and implications

2.1 Key principles of Transitional Safeguarding

Transitional Safeguarding is underpinned by a holistic framework informed by six interconnected and interdependent key principles (Holmes, 2021).



- Being **evidence informed** means drawing on evidence from research, professional expertise, and the lived experience of (in this context) young people and their families (Barlow and Scott, 2010). Research highlights the many safeguarding needs of young people facing criminal exploitation (Firmin, 2020; Maxwell et al, 2019). Evidence from professionals reinforces the need for a more transitional approach (Cocker et al, 2022a), and young people’s stories make a clear case for Transitional Safeguarding (Office of the Chief Social Worker, 2021).
- An **ecological**¹ lens means considering the ‘ecosystems’ that influence a young person, from the individual and their family, through to their peers and community, and wider society. Similarly, a **contextual**² perspective focuses on the places, spaces and social contexts in which young people are safe or unsafe (Firmin, 2020).
- Adolescence and emerging adulthood are distinct developmental life-stages (Coleman and Hagell, 2022; Arnett, 2000); this invites a **developmentally-attuned** approach in which the professional response is responsive to the individual needs of the young person and their circumstances, instead of being dictated by rigid age-related boundaries.

¹ Drawing on Bronfenbrenner’s 1977 ecological theory of child development.

² Drawing on [Contextual Safeguarding](#).

- A **relational** approach that recognises the impact of trauma is core to Transitional Safeguarding, and is particularly important where a young person believes they are choosing to engage in harmful contexts or behaviour (Hickle and Lefevre, 2022).
- Widespread evidence of structural inequalities and disproportionality affecting young people (Davis and Marsh, 2022) demands an **equalities-oriented** approach in which equity, diversity and inclusion are foregrounded in all safeguarding and justice related work.
- Lastly, a highly **participative** approach is needed, recognising young people’s rights and expertise and affording them as much choice and control as possible. This chimes with a restorative approach, allowing young people to engage more fully in procedural justice (Kirby, 2020).

2.2 Why Transitional Safeguarding is needed

Case example:

J is a young person ensnared in an exploitative relationship and engaged in criminal activity as part of this. Upon turning 18, overnight, they will cease to be defined as a victim of child abuse and may instead be viewed as an adult with capacity to make such choices. Their circumstances and vulnerability are entirely unchanged by their birthday, but they are suddenly, no longer ‘everybody’s business’.

The potential impacts of exploitation and trauma – such as mental ill-health and substance misuse – might escalate far enough to constitute ‘care and support needs’ which in turn may mean J is deemed eligible for safeguarding support as an adult. But they will likely experience much more harm and pain first, and may receive a criminal justice response before their safeguarding needs are recognised.

Should J become a parent, it is very possible that children’s safeguarding services might intervene, but this will likely be centred on the safeguarding risks facing their child.

From a justice perspective, the increasing understanding of transitional needs is clear within sentencing guidelines:

‘Reaching the age of 18 has many legal consequences, but it does not present a cliff edge for the purposes of sentencing...full maturity and all the attributes of adulthood are not magically conferred on young people on their 18th birthdays... young people continue to mature, albeit at different rates, for some time beyond their 18th birthdays.’

(Lord Chief Justice, 2018³).

Young people in conflict with the law would be better supported by a less binary system, according to sector leaders:

‘In recent years, the DfE has extended enhanced entitlements of support to other vulnerable groups, including children and young people with SEND and care leavers, up to 25 years to support transitions to adulthood. The enforcement-based approach of adult probation services differs greatly from the ethos and practical support offered by YOTs. A less binary approach to

³ R. v. Clarke [2018] EWCA Crim 185, para 11.

youth justice services would contribute to better outcomes for individual children, for communities and the public purse.'

(ADCS, 2021a).

The argument for Transitional Safeguarding is grouped into three themes, each with relevance to the justice system:

- a) the process of transition from adolescence to adulthood
- b) the harms and structural disadvantages facing many young people
- c) the human and economic costs of the current binary approach

(Holmes, 2022a).

Transition to adulthood is a process, that continues beyond our 18th birthday

Legally, the transition from childhood to adulthood occurs on a person's 18th birthday. However, research evidence presents a more nuanced picture, highlighting that the process of maturation involves physical, intellectual, social and emotional development (Prior et al., 2011), many aspects of which continue into the mid-20s (Johnson et al., 2009). In a review of research on maturity, including how young people exercise judgment and decision-making, authors concluded:

'...levels of psychosocial maturity continue to vary between individuals during the phase of 'young adulthood' (18-25 years) and... those at the lower end of this age range are closer in their psychosocial functioning to under-18s than they are to 25 year olds'

(Prior et al., 2011: 11).

Further studies exploring young people's brain functioning have led to some researchers calling for adolescence to be redefined as 10–24 years (Sawyer et al., 2018).

This understanding of individual maturation and the challenges it presents within the justice system is noted within Parole Board guidance:

'Access to a range of court outcomes and support services ceases on a person's eighteenth birthday. This is irrespective of the degree an individual has developed and matured'

(Parole Board, 2021: 6).

Adolescence is a time of exploration; a degree of risk is arguably developmentally important (Hanson and Holmes, 2014). There are a number of environmental, social and neurobiological drivers that influence a young person's development and their safety (Coleman and Hagell, 2022). This life stage usually involves increased time with peers, and less adult supervision, which can lead to young people being more likely to encounter extrafamilial harms (Firmin, 2020). Manipulation and coercion are common features of exploitation meaning young people may not recognise they are being exploited (Beckett et al., 2017; Maxwell et al, 2019). Yet professionals can too often assume free choice on the part of young people, which can lead to young people being held responsible for the harms they face (Beckett and Lloyd, 2022; Maxwell et al, 2019). However, this does not warrant a professional response that *minimises* young people's agency.

Instead, a developmentally-informed perspective urges a highly participatory response, enabling young people to exercise as much choice and voice as possible. Where practice feels coercive to the young person, this can mirror their experience of exploitation and

undermine their engagement and relationships with professionals (Hill and Warrington, 2022; Lefevre et al, 2017).

Many harms, and the trauma they cause, don't stop at 18

Harms such as exploitation, drug trafficking and community violence are a significant threat to young people's safety (ADCS, 2021b), and can awkwardly position young people at the interface between safeguarding and justice systems. These types of harm do not automatically stop at 18, nor does the resultant trauma. However, professional support can cease abruptly as a young person approaches 18, due to very different safeguarding thresholds for children and adults (Cocker et al, 2021b). Whilst government guidance regarding exploitation acknowledges that young people under 18 can be both victims and perpetrators of these harms (HM Government, 2020; Home Office, 2018), their status is largely defined according to their age, rather than their developmental and environmental circumstances.

Just as many harms facing young people do not stop at 18, neither do many structural factors such as poverty, systemic racism and gender-based discrimination. These have relevance for the safeguarding and justice sector/s:

- poverty and socioeconomic disadvantage influences young people's involvement in criminal behaviour (Bateman, 2017) and serious violence (Irwin-Rogers et al., 2020)
- black young people are disproportionately represented within the youth justice population (Taylor, 2016) and appear to be at heightened risk of criminal exploitation (Child Safeguarding Practice Review Panel, 2020)
- black young people are reportedly more likely to face punitive treatment within the youth justice system (Bateman, 2017), and can experience racism and cultural stereotyping from safeguarding professionals (IICSA, 2020)
- black children may be assumed to be older or more mature than they are (called 'adultification'); they may be deemed more responsible, and less vulnerable, than white peers (Davis and Marsh, 2022)
- black boys in contact with Youth Offending Services (YOS) have been found to have particularly complex – often overlooked – needs (HM Inspectorate of Probation, 2021).
- gender-based biases are observed in the under-identification of young women affected by criminal exploitation and community violence (Eshalomi, 2020).

An intersectional⁴ understanding of how structural disadvantage affects young people's safeguarding and justice outcomes is a key feature of a Transitional Safeguarding response.

The current binary approach creates avoidable human and economic costs

The current binary approach to safeguarding reinforces other polarised thinking, notably the way in which people are viewed as either vulnerable *or* culpable, depending on their age. Criminal exploitation guidance (Home Office, 2018) acknowledges that 'vulnerable adults' may be victims, but does not acknowledge that an adult's eligibility for statutory safeguarding support requires them to have formal 'care and support needs' which render them unable to protect themselves from abuse (Department of Health and Social Care,

⁴ Intersectionality, introduced by Professor Kimberlé Crenshaw in 1989, describes how race, class, gender, and other characteristics 'intersect' to create overlapping systems of discrimination.

2020). Vulnerability is presented as an individualistic construct (something that exists primarily *in the young person*), rather than something which is situational and/or contextual (affected by the young person's circumstances). This can mean that many young adults without formal care and support needs may well be punished rather than protected. This age-bound and eligibility-led mindset conflicts with research on 'cuckooing'⁵ which found targeting not only of people with disabilities and mental health difficulties (Spicer et al., 2019), but also people who would not necessarily be understood as having care and support needs, such as those trapped in drug debt and/or with criminal convictions (Whittaker et al., 2019).

The human costs of the current binary approach can be significant for young people who turn 18 between their offence and conviction:

'The damaging consequences ... include loss of anonymity, reduced likelihood of diversion, only being eligible for adult sentences, longer supervision periods (heightening the risk of breach) and much longer rehabilitation periods which reduce employment prospects and prevent people moving on with their lives.'

(Helyar-Cardwell, 2020).

Transitional Safeguarding is tentatively supported by economic arguments too. When adolescents are not supported to recover from harm and trauma it can mean that difficulties escalate in adulthood, resulting in higher costs (Chowdry and Fitzsimons, 2016; Kezelman et al., 2015). Failure to address safety and wellbeing needs during this life stage can result in costs that are felt beyond safeguarding services; reductions in funding for wider public services have been found to result in 'cost-shunting' to law enforcement agencies (House of Commons Committee of Public Accounts, 2018). This chimes with evidence showing the significant proportion of people with experience of trauma and abuse in prison (House of Commons Justice Committee, 2016), and the interplay between children's social care involvement and homelessness in young adulthood (Clarke et al., 2015) which often drives poor mental health outcomes, substance misuse issues and involvement in offending. Given the interconnectedness of adversities and expenditure, the argument for preventative and interconnected investment across this life stage is clear:

'Put simply, the current approach of ceasing children's safeguarding support at 18, only for many young people to go on to develop needs which may eventually qualify them for a safeguarding response as an adult, is remarkably poor value for money.'

(Holmes, 2022a).

2.3 How Transitional Safeguarding connects with the justice system

The most obvious connection between the justice and safeguarding systems is that the respective populations overlap considerably. Justice professionals and researchers have repeatedly highlighted the high levels of trauma, neurodiversity, learning needs and impaired mental health amongst the young adult custody population (House of Commons Justice Committee, 2016). The Parole Board concur:

⁵ Home invasion as a means of enabling drug dealing.

'Young adults in custody often have psychological needs or neurological disabilities which may have gone undiagnosed, and which leave individuals vulnerable or open to exploitation'

(Parole Board, 2021:5).

These intersecting neurobiological and safeguarding needs can be seen not only in the adult justice population, but the youth justice population too. Recent analysis regarding sentenced young people (YJB, 2020) found that:

- 88 per cent had safety and wellbeing concerns
- 75 per cent had substance misuse concerns
- 71 per cent had speech, language and communication needs
- 71 per cent had mental health concerns
- 56 per cent were a current or previous Child in Need.

Fortunately there are existing requirements and frameworks designed to enable effective transitional support for young people in contact with the justice system. The Joint National Protocol for Transitions in England aims to support effective transfer of supervision from youth offending services to adult probation services and ensure the transition process is carried out as smoothly as possible (HM Government, 2021). Furthermore, as highlighted below, the key principles of Transitional Safeguarding chime to some extent with many core practices and policy imperatives within youth and adult justice.

Key principles and examples of resonance within youth and adult justice

Be evidence-informed

requirement to *'demonstrate improvements via evidence of local learning and decision making on the design of services, operation and what works'* (YJB, 2019:6).

expectation that practice within Integrated Offender Management is evidence-based and evaluated (HM Inspectorate of Probation, 2020b).

Adopt an ecological/contextual view

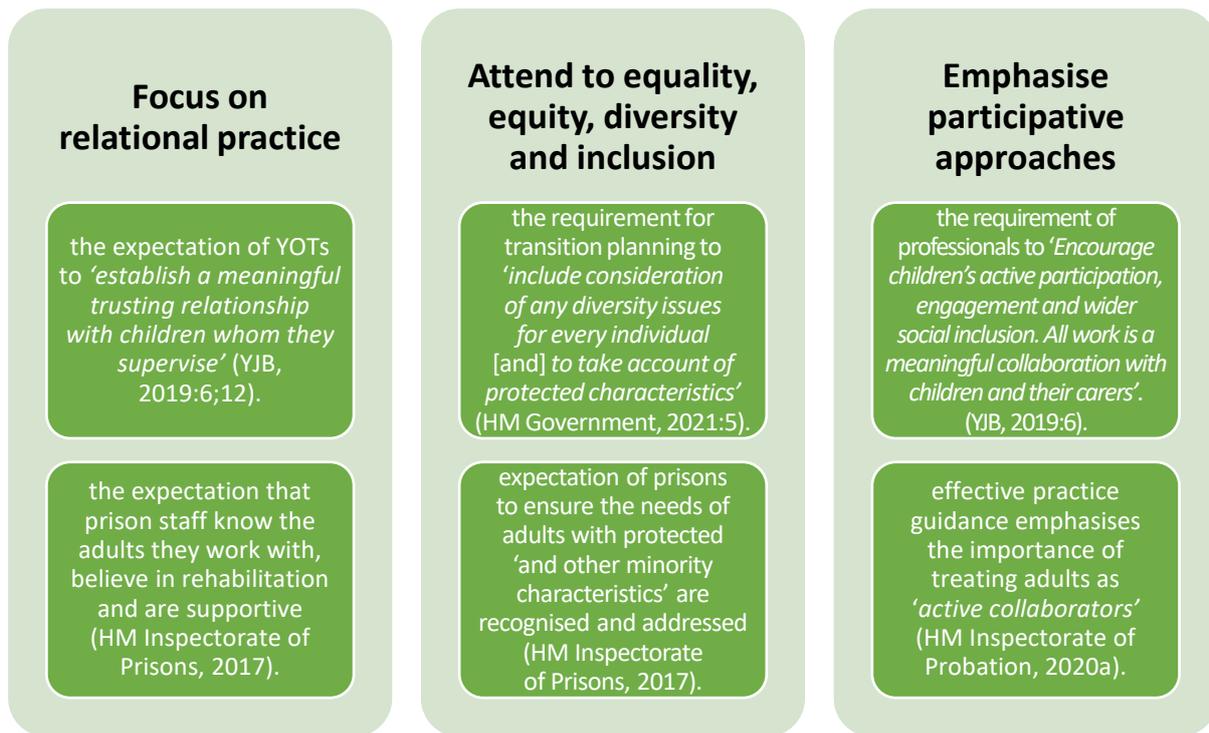
requirement to consider social and environmental factors as both risk and desistance factors (YJB, 2014).

emphasis on understanding strengths and protective factors in an adult's life to support desistance (HM Inspectorate of Probation, 2020a).

Be developmentally-informed

Joint Protocol requirement that *'transition planning must focus on providing flexible and continuous services tailored to meet individual needs'* (HM Government, 2021:4).

recognition of young adults as a *'distinct group of prisoners, who are still in the process of maturing and who are often vulnerable'* (Parole Board, 2021).



2.4 Implications for practice and policy

Using Transitional Safeguarding key principles as a guide, change and improvements can usefully be considered at a number of levels:

- in direct practice with young people
- within services and workforce
- within strategic partnership working
- within policy.



Considerations for direct practice with the young person

- Assessments should balance consideration of both the individual needs and developmental stage of the young person and the structural and contextual factors that influence their lives. The impact of trauma and adversity should be explored in relation to a person's offending behaviour and decision-making, and professionals must be alert to the potentially re-traumatising effects of describing past harms.
- This recognition of trauma and context should also inform direct practice with young people; professionals should recognise the mistrust and fear that may underpin some young people's seeming 'resistance' to intervention. Relational and restorative practice principles should guide all direct work with young people.

- Participatory practice is more than seeking a young person's views on their plan; practitioners can and should strive to actively involve young people as experts in their own lives. See this [toolkit](#), published by Nacro, designed to promote a constructive, identity-focused approach with young people.
- Reflective practice can help workers to understand how biases and assumptions may be influencing practice. This involves critically appraising a situation and seeking to understand issues of motivation, coercion, capacity and context.
- Issues of equity, diversity and inclusion must be explicitly recognised in both assessment and direct work. Experience of racism, ableism, classism and sexism can all contribute to a young person's vulnerability, and discrimination can be replicated within practice or service delivery. Practitioners are therefore vital advocates for young people being marginalised within the justice system.
- Young people whose choices have been restricted (whether through exploitation or by virtue of a criminal justice response), require a highly participatory response from professionals. Affording as much voice and choice as possible to young people is a vital means of countering the controlling dynamics of criminal groups, enabling appropriate responsibility without blame, and is also accordant with mental capacity being presumed from aged 16.
- Drawing on the ethos of Making Safeguarding Personal (MSP), which underpins safeguarding practice with adults, professionals within probation and the prison estate can embed a person-centred and strengths-based approach. This does not excuse criminal behaviour, but rather places the young adult at the centre of the change process, and as an expert in their own life. See the [MSP toolkit](#) for more information.

Considerations for services and workforce

- Practitioners and managers across the justice sectors should be provided with high quality ongoing CPD. This should include up-to-date evidence informed training on:
 - understanding and working ethically with trauma
 - cultural competence and unconscious bias
 - legal literacy and mental capacity
 - analysis and critical thinking.
- Supervision and ongoing learning are as important as traditional training. Justice professionals across the multi-agency workforce should be provided with reflective supervision in order to make sense of complexity and process the emotional impact of this work. Peer-learning, group supervision, knowledge exchange, self-directed study and shadowing should also be considered for routinely supporting and informing practice.
- Commissioners should explore opportunities to commission services to provide fluid support across the transition to adulthood, and where this is not possible should try to support collaboration between services for adolescents and adults. Voluntary and community sector services may be able to operate more flexibly, but require flexible funding frameworks to do so. Commissioning and market shaping activity should actively engage the expertise of non-statutory service providers.
- Pathways between children's and adults' services, and between safeguarding and justice services, should be as fluid as possible. Local review and testing of the pathways between services should include practitioners' and young people's and their parents/carers' feedback.

- More accurate data and more effective information-sharing between agencies is essential in order to:
 - reduce the levels of undiagnosed and/or unmet needs
 - understand the needs of minoritised but over-represented groups
 - strengthen the case for resources in justice settings to meet these needs
 - shape long-term planning in relation to the justice system and its future workforce
 - reduce the longer-term public costs of unmet needs amongst this population.
- Significant benefits have been found in bringing together disciplines, especially children's and adults' workers, in order to respond holistically to needs and risks (Forrester et al., 2017). Enhanced support for these young people could be offered through multidisciplinary teams that bring together children's services, adult services and criminal justice professionals.

Considerations for strategic partnership working

- A number of local strategic groups are relevant to this agenda, including the Children's Safeguarding Partnership, Safeguarding Adults Board, Community Safety Partnership, Health and Wellbeing Boards, Violence Reduction Unit steering groups and the Local Youth Justice Board. Greater synergy and alignment can be supported by:
 - identifying areas of alignment between strategic plans and developing shared progress measures to underpin these. For example, several of these groups might be concerned with drug use and/or drug markets
 - reviewing how and whether objectives set by any of these groups might conflict with – or harmonise with – the objectives of other groups
 - adopting shared/connected approaches to multi-agency workforce development, and developing a coherent supervision offer across the system
 - establishing Transitional Safeguarding as a shared priority, reported to all relevant groups to enable system-wide accountability
 - developing shared or mirrored criminal exploitation protocols to support young people under and over 18, ensuring that local agencies collaborate to fill gaps in the system. See, for example, Southend-on-Sea Borough Council's 'transitional approach to exploitation' described in [Bridging the Gap](#).
- Strategic planning should be underpinned by a sophisticated assessment of young people's needs, not service demand, and should draw on qualitative insights as well as robust data.
- Local strategic activity should be directly informed by the expertise and views of young people, their families and practitioners. See for example [Hearing Young People's Voices – Reflective Questions for Strategic Leaders](#).
- Local Children's Safeguarding Practice Reviews and Safeguarding Adult Reviews should explore the extent to which criminal behaviour contributed to or obscured the person's safeguarding needs.
- Strategic leaders themselves are highly influential and can support the embedding of Transitional Safeguarding by:
 - role-modelling an understanding of young people's developmental needs and a commitment to their rights
 - demonstrating systems-leadership, collaborating across system boundaries to support continuous improvement and innovation

- mirroring strengths-based relational leadership, setting an example for practice
- modelling a reflective practice culture, by engaging in learning activity and supervision
- constructively challenging a binary understanding of childhood versus adulthood, of vulnerability versus culpability, whenever they hear it
- rejecting blunt progress and impact measures that could impede longer-term innovation; demotivate professionals and create perverse incentives.

Policy considerations and opportunities

- Unintended consequences of safeguarding and justice policy could be better avoided in relation to disproportionality if all policy initiatives were subject to a comprehensive equalities impact assessment.
- The creation of a cross-government working group for this cohort whose needs and services span several departmental portfolios could enable a greater degree of coherence and shared accountability, alongside better understanding of system-wide costs and therefore investment opportunities.
- Shared innovation funding that spans departments could unlock some of the barriers that Transitional Safeguarding identifies, and would mirror the ambition for more effective joint commissioning locally.
- HMPPS-funded pilots designed to ensure better support for care-leavers in prison highlight the importance of culture in achieving system change. Enhanced multi-agency CPD, supported by boundary-spanning governance arrangements are both vital in holding local government and prisons to account for the outcomes of care-experienced people in custody.

3. Conclusion

Evidence from research, from young people and their parents/carers, families and communities, and from the professionals who support them, combines to make a compelling case for a boundary-spanning approach to promoting young people's safety. It is increasingly clear that binary notions of childhood versus adulthood, and of vulnerability versus culpability, do not reflect the complexity and interconnectedness of young people's lives.

Transitional Safeguarding is an emerging concept, underpinned by a principles-led framework which highlights the importance of an approach which is evidence-informed, ecological/contextual, developmentally-attuned, relational, equalities-orientated, and participative. The framework requires consideration at multiple levels of the system, meaning that everyone has a part to play in its development and adoption.

In this paper, we have set out the potential for changes in relation to individual practice, services and workforce, strategic partnerships, and policy. Crucially, practice cannot be expected to change in a vacuum; the systems and policy landscape within which practitioners are working need to adapt and evolve to enable effective support for young people. Colleagues working within the justice sector have a significant contribution to make to the Transitional Safeguarding agenda, and can bring valuable expertise to local innovation.

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