

**Criminal
Justice
Alliance**

Prosecuting Young Adults

The potential for taking account of maturity at the charge
and prosecution stage of the criminal justice system



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The Criminal Justice Alliance

The Criminal Justice Alliance is a coalition of 70 organisations – including campaigning charities, voluntary sector service providers, research institutions, staff associations and trade unions – involved in policy and practice across the criminal justice system. The Criminal Justice Alliance works to establish a fairer and more effective criminal justice system.

The research for this paper was undertaken by Stephen Moffatt, Policy and Campaigns Officer at the Criminal Justice Alliance. The views contained in this paper are not necessarily those of the T2A Alliance or its member organisations.

The Barrow Cadbury Trust

The Barrow Cadbury Trust is an independent, charitable foundation, committed to supporting vulnerable and marginalised people in society. The Trust provides grants to grassroots voluntary and community groups working in deprived communities in the UK, with a focus on Birmingham and the Black Country. It also works with researchers, think tanks and government, often in partnership with other grant-makers, seeking to overcome the structural barriers to a more just and equal society.

The work of the T2A Alliance

The T2A Alliance evidences and promotes effective approaches for young adults throughout the criminal justice process. T2A is a coalition of twelve of the leading criminal justice, health and youth organisations, convened by the Barrow Cadbury Trust.

T2A's pilot projects, running since 2009, have been testing innovative approaches for young adults at different stages in the criminal justice process. These community interventions are tailored to the needs of the individual young adult, and have been shown to reduce offending and improve social outcomes. In 2012, T2A published a major report, 'Pathways from Crime', which identified ten points in the criminal justice process where a more rigorous and effective approach for young adults and young people in the transition to adulthood can be delivered. Stage four, on prosecution, recommended that: "As part of the decision-making process on arrest, charge and prosecution, the police and the Crown Prosecution Service should consider the 'lack of maturity' of a young adult offender, alongside current considerations of 'youthfulness', among the factors tending against prosecution, in line with similar considerations by probation and sentencers later in the process".¹

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¹ Transition to Adulthood Alliance (2012) Pathways from Crime. Barrow Cadbury Trust.

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Executive Summary

Within Criminal Justice policy there has been an increasing recognition of the role of maturity as a factor in the commission of crimes, particularly for the young adult group, and there is a new interest in how a more rigorous and effective approach for young adults in the transition to adulthood (aged between 16 and 24) can be delivered.

This focus is important for a number of reasons, not least the high numbers of young adults who come into contact with the police and go on to be prosecuted in the courts.² Significantly, since 2011 the Sentencing Council for England and Wales has included 'Age and/or lack of maturity where it affects the responsibility of the offender' as an express mitigating factor in their sentencing guidelines for adults.³

In 2013 the Crown Prosecution Service published a new Code, which for the first time explicitly included taking the maturity of an individual into account as part of the 'public interest test', alongside other more established factors such as learning difficulties and mental health problems. This development represents a new opportunity for prosecutors to more explicitly and transparently consider the maturity of young adults, as is currently the case within the youth justice system.

This research study investigates how the inclusion of the concept of maturity will work in practice, using the expertise of prosecutors to help us to understand how the concept of maturity is currently applied within the youth justice system and what lessons can be learnt to ensure the successful implementation for young adults.

This research has found that within the Crown Prosecution Service there is a significant level of expertise in, and experience of, working with issues around maturity, but that in order for the new measure within the code to be implemented in way which ensures both its consistent and correct application a number of further changes are required. We therefore recommend:

1. Training and guidance about maturity should be available to the CPS, Police, and defence lawyers.
2. Protocols should be developed between the Police, CPS and other local agencies for gathering and sharing information.
3. Agencies should strengthen and maximise the use of the Conditional Caution for young adults.
4. There is scope to explore the introduction of problem solving approaches in the Courts, where maturity is identified at the prosecution stage.

² Court statistics (quarterly) - July to September 2012. Ministry of Justice.

³ Sentencing Council (2011) *Assault: Definitive Guideline*, London: Sentencing Council.

Introduction

The Crown Prosecution Service (CPS) plays a vital role and has considerable influence across the entire spectrum of the criminal justice system. The CPS has often been described as a ‘gatekeeper’ of the criminal justice system. As with the police in decision-making at the point of arrest, there is significant discretion for prosecutors in deciding whether to charge someone with an offence, and what level of charge to make. The CPS is responsible for making the decision, guided by its Code, to pursue prosecution only where there is sufficient evidence to justify such and when it is required in the ‘public interest’.

Within Criminal Justice policy there has been an increasing recognition of the role of maturity as a factor in the commission of crimes, particularly for the young adult group, and there is a new interest in how a more rigorous and effective approach for young adults in the transition to adulthood (aged between 16 and 24) can be delivered. This focus is important for a number of reasons, not only given the high numbers of young adults who come into contact with the police and go on to be prosecuted in the courts.⁴

In 2013 the Crown Prosecution Service published a new Code, which for the first time explicitly included taking the maturity of an individual into account as part of the ‘public interest test’, alongside other more established factors such as learning difficulties and mental health problems. This development represents a new opportunity for prosecutors to explicitly and transparently consider the maturity of young adults, as is currently the case within the youth justice system.

This research study, through interviews with experienced prosecutors and criminal justice professionals, specifically investigates how this new measure will work in practice, using the expertise of prosecutors to help us to understand how the concept of maturity is currently applied within the youth justice system and what lessons can be learnt to ensure the successful implementation for young adults. The study also investigates how different prosecutors’ attitudes and interpretations of maturity will impact on the way that maturity is understood and what the subsequent impact will be on both young adults and the criminal justice system as a whole. Finally, the research particularly addresses the practical implications of implementation, and what further changes are required to ensure that this new measure works consistently and effectively in practice.

⁴ Court statistics (quarterly) - July to September 2012. Ministry of Justice.

Background

There are a disproportionate number of young adults⁵ within the criminal justice system – they account for more than a third of the probation service’s caseload and almost a third of those sentenced to prison each year⁶. They are, however, the group most likely to desist and ‘grow out of crime’, thereby making it particularly important that criminal justice interventions for young adults are carefully selected and appropriately tailored to ensure they receive the support they need to reduce their reoffending and become constructive members of society.

Indeed, evidence⁷ shows that using an inappropriate intervention can in fact slow down the desistance process for a young adult, leading to long term negative repercussions – the cost of which are ultimately borne by victims of crime, communities and the state.

The concept of maturity

In UK law all young adults are considered to be adults on reaching their 18th birthday. In reality, the transition from childhood to adulthood takes place at different times for different people, and in recent decades the transition from youth to adulthood has become a more extended and complex process. People leave parental homes at a later stage, remain in full time education for longer and in general take a greater period of time to become fully independent.

Additionally, there is extensive evidence from a variety of disciplines including criminology, psychology and neurology that young adults vary in their developmental maturity. Neurological research has begun to demonstrate that cognitive development and emotional regulation of the brain does not fully develop until someone has reached their mid-20s⁸, before which individuals are “low on reason and high on emotion”.⁹ Clearly this has a direct impact on an individual’s ability to control their behaviour, potentially increasing their propensity to partake in risky behaviours.

There is also evidence that “psychosocial capacities and moral reasoning abilities vary considerably between individuals in the young adult age group”.¹⁰ In other words, some individuals remain immature longer than others, including after their 18th birthday; chronological age offers a poor guide to a person’s maturity.

Clearly, these findings have implications for the way in which the criminal justice system handles young adults, and indeed a recent wide-ranging literature review on maturity by the University of Birmingham concluded that the research they reviewed “point[ed] emphatically to the inappropriateness of an arbitrary age limit as the key factor determining the kind of judicial response an offender should receive”. Furthermore, they also concluded that “[within] the young adult group, the level of maturity exhibited by an offender is a valid factor to be considered within the legal process”.¹¹

Maturity and the Criminal Justice System

In recent years several positive changes have been introduced, both in policy and in practice, which has led to some criminal justice agencies taking more account of the maturity of young adults in their decision-making. Significantly, since 2011 the Sentencing Council for England and Wales has included ‘Age and/or lack of maturity where it affects the responsibility of the offender’ as an express mitigating factor in their sentencing

⁵ The T2A Alliance defines young adults as those aged 16-25 years old.

⁶ Transition to Adulthood Alliance (2010) *Why is the criminal justice system failing young adults?*, The Barrow Cadbury Trust.

⁷ McNeill, F. and Weaver, B. (2011) *Changing Lives: desistance research and offender management?*

⁸ Prior, D. Et al. (2011) *Maturity, young adults and criminal justice: A literature review*. University of Birmingham

⁹ Transition to Adulthood Alliance (2009) *Universities of Crime: Young Adults, the Criminal Justice System and Social Policy*. The Barrow Cadbury Trust.

¹⁰ *Ibid.*

¹¹ Prior, D. Et al. (2011) *Maturity, young adults and criminal justice: A literature review*. University of Birmingham.

guidelines for adults. This was the first time in sentencing practice in England and Wales that the concept of maturity has featured in relation to sentencing adults. Encouragingly, the 2012 Crown Court Sentencing Survey showed that, within the first year of availability, this factor is now being routinely considered by judges.¹²

The recent Commissioning Intentions published by the National Offender Management Service (NOMS) proposes that young adult offenders should be considered as a distinct group. In addition, it also highlights that NOMS will develop a new, specific, young adult commissioning strategy.¹³

Further innovative work is also being undertaken across the probation service to reduce young adults' reoffending and support them to desist from crime. For example:

- Staffordshire and West Midlands Probation Trust, the second largest probation region in England and Wales, is currently rolling out a 'T2A approach'¹⁴ throughout its nine probation areas.
- The 'Intensive Alternative to Custody' project run by Greater Manchester Probation has shown very promising outcomes through their work with young adults aged 18-25 on community orders¹⁵, a model now being replicated throughout London.

Whilst these are significant and welcome steps, there is more that could and should be done in the earlier stages in the process, particularly in policing and prosecution.

Maturity and the Crown Prosecution Service

The Crown Prosecution Service (CPS) plays a critical, and sometimes underrated, role in the criminal justice system. The CPS was established in 1986 following a Royal Commission on criminal procedure. It was primarily created to provide an independent body that could objectively and consistently make decisions on whether to charge someone with an offence; and to subsequently take responsibility for prosecuting those defendants in court.

In 2011/12, the CPS prosecuted almost 900,000 defendants - the vast majority of those (more than 80 per cent) in the Magistrates' Courts. This represents a 6.6 per cent reduction on the previous year, and a 35 per cent reduction since 2003/04 when the CPS prosecuted its largest caseload.¹⁶ Currently the CPS hold all decision making powers around charging for 'indictable' and 'each way' offences, with the police retaining charging powers over more minor offences. The Home Office has recently, however, announced plans to extend the range of cases that the police can prosecute themselves, moving beyond driving offences to those of criminal damage (under the value of £5,000) and some alcohol and public order offences.¹⁷

When deciding on charging and prosecuting, the CPS hold the power to instruct other agencies, such as the police and probation, have constant interaction with defence lawyers, and have the potential to link together a number of relevant agencies for each case. In this way they hold considerable influence and responsibility across the whole justice system.

12 <http://sentencingcouncil.judiciary.gov.uk/facts/crown-survey-results-2011.htm>

13 NOMS (2012) Commissioning Intentions for 2013/14, Discussion Document. Ministry of Justice.

14 The T2A approach helps manage the transition from youth to adult services, taking account of developmental maturity of young adults, through projects tailored to the needs of the individual.

15 Ministry of Justice. (2012) Process evaluation of Manchester and Salford Intensive Alternative to Custody pilot. Research summary 6/12.

16 Sosa, K. (2012) *In the Public Interest: Reforming the Crown Prosecution Service*. Policy Exchange.

17 <http://www.homeoffice.gov.uk/media-centre/news/police-prosecution-powers>

One of the CPS's key responsibilities lies in producing the 'Code for Crown Prosecutors', by which all prosecutors are guided when determining whether or not to charge and proceed with a prosecution charge. In making this determination, prosecutors must be satisfied that there is enough evidence to provide a "realistic prospect of conviction" against each defendant on each charge in what is known as the evidential stage. Subsequently, they must also determine whether a prosecution is in the public interest. In 2011/12, almost 4,000 cases were dropped at the pre-charge stage, and just over 20,000 at the post-charge stage on public interest grounds.¹⁸

In 2013, a new Code for Crown Prosecutors was approved by the CPS. Although for some years both youthfulness and mental health have been explicitly taken into consideration by prosecutors when deciding the public interest test, the new code expressly mentions maturity as a factor for determining the culpability of an individual.¹⁹ This new development presents an exciting opportunity for prosecutors to clearly and explicitly consider maturity when working with young adults.

Methodology

Semi-structured interviews were conducted with highly experienced prosecutors and professionals from within the criminal justice system. These experts were drawn from across different specialisms in order to gather a broad range of opinions and insight. The topic guide for the interviews was developed in consultation with an expert in prosecutions (please see appendix).

The interviews were recorded and subsequently transcribed before being analysed. About half of those interviewed had previous experience and expertise in considering maturity within youth cases, as this is currently taken into account by the CPS within the youth justice system. These interviewees were specifically included in order to enable us to discover how in practice prosecutors presently deal with the issue of maturity and to determine the feasibility of applying a similar process to young adults.

In addition to the interviews, a roundtable event was held with a number of experts in the field to discuss the initial research findings. Attendance included academics, legal experts and a Chief Crown Prosecutor. The discussion assisted in finalising the concluding recommendations within the report.

Findings and Analysis

This research study, through interviews with experienced prosecutors and criminal justice professionals, specifically investigates how the inclusion of the concept of maturity will work in practice, using the expertise of prosecutors to help us to understand how the concept of maturity is currently applied within the youth justice system and what lessons can be learnt to ensure the successful implementation for young adults.

The study also investigates how different prosecutors' attitudes and interpretations of maturity will impact on the way that maturity is understood and what the subsequent impact will be on both young adults and the criminal justice system as a whole.

Finally, the research particularly addresses the practical implications of implementation, and what further changes are required to ensure that this new measure works consistently and effectively in practice.

Defining maturity

Maturity is a complicated concept. There are a number of elements that make up the maturity of an

¹⁸ Crown Prosecution Service, Annual Report and Accounts 2011–12.

¹⁹ Code for Crown Prosecutors (2013), Crown Prosecution Service.

individual, including neurological, social and emotional factors. Interviewees were asked about their professional understanding of the concept of maturity in order to determine whether there was a clear and consistent understanding of the concept.²⁰

There was an initial hesitancy by many to provide a response to the broad question “What is maturity?”. Explaining what they believed maturity to be appeared an uncomfortable task for some interviewees and seemed to require significant thought, with some stating it was something they would need to properly reflect on, as demonstrated by one response: *“that is a philosophical question isn’t it?” [laughing]*.

However, when asked a more direct question regarding the concept of maturity within their roles as prosecutors, interviewees responded more readily, finding this more straightforward. The most common response was that maturity relates to the ability of an individual to understand the consequences of their actions and to effectively distinguish between right and wrong:

“It’s got to be the age at which they understand what they are doing is right or wrong”.

“Understanding the consequences of your actions, not just chronological age”.

“I suppose it’s the extent to which somebody is aware of the consequences of their actions and, taking a step further, the extent to which somebody is then aware of the ramifications of those consequences”.

Interviewees, however, acknowledged that there was no definitive test that could measure this:

“I suppose that a lot of it for me is taking responsibility... Some people are mature at 14, some people are mature at 18, some people never are, it’s not an exact science I suppose”.

These interviewees indicated that in the course of their profession, this was the concept of maturity that they applied, with some recognising that this was perhaps a more simplistic definition than their personal views. They also indicated that this definition is what is probably broadly adopted across the CPS and what they felt was what they were, to an extent, expected to apply.

Some interviewees however gave a more nuanced definition of the concept, discussing for example that maturity is more than simply an individual’s intelligence, but also takes account of emotional behaviour. A few respondents specifically detailed that maturity would involve physiological, psychological and behavioural elements;

“[Maturity is] an understanding, an appreciation of consequences and actions. In that, maturity is not one thing, it’s a number of things, and it’s a makeup of an individual as to how mature they are...what kind of environmental factors that you have had in your life that can make you understand and appreciate your consequences and actions and other people’s consequences and actions”.

“I think we are beginning to recognise there are all sorts of socioeconomic, environmental, medical, familial factors that impact upon maturity and the ability for a young person to act in what we would regard as a rational objective sensible moral person.”

Interestingly, some respondents suggested that individuals who came from “impoverished” backgrounds and lived in “difficult circumstances” were ‘more’ mature.

²⁰ In conducting the interviews it was appreciated that the respondents’ personal perception of the term might be different to that applied in their professional lives.

“A person in care is probably much more mature than somebody who is brought up with both parents”.

Finally, interviewees generally acknowledged that maturity and mental health were two distinct issues, but expressed the view that at the end of both spectrums they might intertwine somehow.

A shared understanding

Interviewees were asked whether they thought they and their colleagues had a shared understanding of maturity. Most felt that they did, with one interviewee stating that if ten prosecutors looked at maturity, nine of them would come to the same conclusion;

“I think we all hold relatively similar values”.

However, not all interviewees agreed – this is perhaps to some extent a function of legal definitions where there is often room for interpretation. Some interviewees stressed that the concept was extremely subjective, with others highlighting that as there is no specific definition of maturity that they work towards, there was room for inconsistency;

“It is very subjective, it does mean something different to lots of different people. I don’t think there is a general definition of maturity that we all work to”.

“Unfortunately subjectivity plays a big part”.

“I might have a different opinion to my colleague who sits next to me, never mind someone in a different region to myself”.

In practice, prosecutors often share information and discuss any concerns or issues with their colleagues, thereby mitigating personal discrepancy;

“It’s always the case where you are unsure about something you bounce it off a colleague”.

Current practice within the Youth Justice System for considering maturity

As maturity will now be an explicit factor for all prosecution decisions following the approval of the new code, it is important to understand how the concept is currently considered and applied within the youth justice system, and the impact it can have on prosecution decisions.

How and when are concerns around maturity identified?

Interviewees were asked how and at what point the issue of maturity is raised. There was agreement that it should ideally be identified at as early a stage as possible, i.e. at the point of *“pre-charge by the police”*. Interviewees felt that this usually happened when the officers involved in a case were experienced but was perhaps often overlooked when less-experienced officers were involved.

If the police fail to raise the issue, then it is the responsibility of prosecutors to identify it themselves. Unfortunately this can be almost impossible in some cases where, for example, the prosecutor has exceptionally limited information about the defendant, has little to no time with them, or a guilty plea is lodged very quickly;

“[If the police don’t pick up it] then it’s down to us to ask if there is anything specific but, if there is nothing obvious, it can often get missed that there is a problem”.

In these situations it often falls on the defence or the parents to raise the issue or else the defendant simply “*slips through the cracks*”.

Interviewees highlighted that often the type of offence in question can assist prosecutors to flag potential cases where the offender may have a maturity issue, for example;

“Often it’s flagged due to the sort of case it is”.

“Often it’s related to the offence, so for youth cases it’s always an issue around sexual offences”.

However, the practice for flagging maturity issues was felt to be ad-hoc with no consistent processes or systems in place. There was an acknowledgement that at present, because of the way the system is structured, a large number of young people will inappropriately pass through the courts without their lack of maturity being brought into question. There were divergent views as to what the ideal process should be and whether one specific agency should bear overall responsibility for identifying concerns around maturity.

Evidence to show an individual’s level of maturity

Establishing the impact of an individual’s maturity on the commission of a crime is extremely difficult as it plays different roles in different instances and with varying degrees of influence. However, nearly all the interviewees agreed that for the maturity of an individual to play a significant role in the decision, it must be shown that it played a part in the commission of the offence.

In order for a prosecutor to determine this, they must have evidence of that person’s level of maturity. The process of gathering this evidence can vary depending on each individual case but a key issue for prosecutors is how to obtain the information they need.

Prosecutors are duty bound to work with the police to gather this information and interviewees indicated that prosecutors generally direct the police to gather written reports and statements from particular agencies and individuals. However, interviewees were clear that beyond this there is no routine approach for gathering this information, rather it being determined on a case by case basis and with the level of investigation dependant on factors including the seriousness of the case, the likelihood of identifying credible and important information, and likely impact that the information could have on a prosecution decision.

Interviewees highlighted that schools are often “*very, very, helpful*” sources of information, particularly individual student reports and especially if the teacher had written specific comments about the youth besides their academic ability and behaviour. Unfortunately in some cases the defendant may have been out of school for a significant period prior to the offending incident, thereby reducing the value of this source, or even removing it altogether.

Social services records were also identified by interviewees as a fundamentally important source of information, at times being seen to contain detailed information pertinent to the maturity of the individual. So too were doctor reports and mental health team records. Of course, these records would only be available if the defendant had been in contact with these agencies. Youth offending services were also reported to be valuable sources of information, although this can vary from location to location.

Interviewees stated that information from an independent third party, “*anybody who has got a professional working relationship with this young person who could provide meaningful information*”, can be helpful and indeed is often the ideal information they are seeking to help inform their decision on charge and prosecution. In addition a few respondents felt that the families of offenders can offer up a great deal of helpful information.

It is important to note that nearly every interviewee emphasised that in most cases, they wished for more information about the maturity of defendants; *“there is no such thing as an information overload for prosecutors”*. Unfortunately interviewees reported that there are cases when they just don’t have the depth of information they want and in those cases, to an extent, *“you are really just putting your finger up in the air and hoping for the best”*.

It is interesting to note here that the agencies identified by interviewees as valuable sources of information about an individual’s maturity demonstrate an awareness that maturity is more than simply the ability to appreciate the consequences of one’s actions.

Barriers to gathering information about maturity

There is currently no established protocol for the sharing of information between the different agencies that prosecutors often rely upon for information about an individual’s maturity. As such, they are required to formulate the specific questions to which they require answers for each individual case. As one stated; *“realistically it is always going to be a case of prosecutors jumping around after information in an ad-hoc basis”*.

Interviewees indicated that this process can be very time consuming, and yet with no guarantee as to the quality of the information that will be collected. As previously stated, prosecutors are duty bound to ask the police to gather the majority of the information about an individual’s maturity. Interviewees indicated, however, that because they appreciated the value of a police officer’s time, and did not want to overly burden them with requests, they sometimes felt this requirement to go through the police to be a barrier, and one that could be partially rectified by putting in place better information sharing protocols. Some interviewees also reported incidences of police officers failing to ask the right questions, or not being experienced enough to even think about looking at the issue of maturity prior to a CPS intervention.

Some interviewees reported that social services could be *“a nightmare to get information out of”*, highlighting occasions where social services had been very *“hesitant”* and *“had refused to cooperate”* when approached for information. This was reported to be exacerbated when the individual had previously lived in another location due to the difficulties associated with gathering someone’s records across different authorities. One interviewee recounted how social services often responded to requests by refusing to provide the information until they had been told what the decision around the charge would be – somewhat missing the point that the decision is dependent on the information requested of them;

“Children’s services often won’t give us an assessment until they know what the CPS decision is and yet we need their assessment to make that decision”.

The fact that prosecutors are so reliant on the co-operation of other agencies on a case by case basis can act as a barrier to gathering the information they need to make a wholly informed decision;

“I think we very often miss things at an early stage when we aren’t given information. We are wholly reliant on this information from third parties and if they are obstructive in any way it is very difficult for us”.

Overall, joint-working and information sharing was identified as a general issue between the CPS and other agencies, and not one simply related to maturity.

Finally, time, or a lack of it, was also raised by interviewees as a barrier to gathering information. They reported that prosecutors may not see the case until just a few hours before the defendant appears in court and may only have very limited information on which to work on and no time in which to develop it.

Taking maturity into consideration when deciding the outcome of the case

Interviewees were asked about the extent to which maturity can have a role in decisions to charge, divert, caution and discontinue, and responses indicated that there was a good general understanding.

However, two important points were noted by interviewees prior to looking at what the specific impact might be. Firstly, it was felt that once a case has been charged by the police, it is often viewed as being almost too late to then raise the issue of maturity in a manner that will impact the prosecution decision; *“at that point the horse has already bolted so to speak”*. It was stated that raising maturity thereafter was a very difficult task.

Secondly, in England and Wales prosecutors do not have the power to state what sentence they want the offender to receive within court. That is for sentencers to decide. Once the person has been charged, interviewees generally reported feeling that whether maturity would have an impact on the sentence was then realistically out of their hands. Interviewees felt that sentencers did take maturity into account when sentencing, but only if they had the right information before them. Respondents did however state they could, at times, try instead to subtly influence magistrates and judges by

“..not suggesting a particular sentence, but perhaps focusing on that as an option a little more than some of the other options. Hopefully, to give them a hint that is where the crown sees this case”.

Interviewees did however state that it is part of their role to raise the issue of maturity in mitigation if they have recognised it as a concern and they feel that the defence has failed in their duties to bring it up;

“If it has gone to court and it is clear that the defendant has issues then it would be remiss if I didn’t raise the issue”.

When asked whether or not a prosecutor would decide not to charge or discontinue a case based on maturity, interviewees generally responded that it would depend on other factors and the extent to which the maturity played a role in the commission of the offence; *“We need something to hang our hats on”*.

Interviewees indicated that with an individual who has committed a minor offence who has few priors, the likelihood is that when combined with the maturity issue, they would push for diversion or a caution. Although, in that instance, they indicated that the existing public interest test would probably favour not prosecuting, regardless of maturity.

Interviewees also suggested that maturity may play a role in looking at *“whether the prosecution is proportionate, what impact it would have on somebody’s life”*.

For more serious offences, interviewees indicated that maturity would be less likely to have an impact, unless it were the case that the maturity of the individual was so low that it was felt they didn’t fully understand the consequences of their actions – although at this point the boundary between maturity, mental health and learning difficulties begins to blur.

Responses suggested that in some cases prosecutors may be willing to give greater weight towards maturity than in others, for example if there are other public interest factors that pointed towards not charging the individual, then maturity was said to be able to apply further pressure in favour of that decision being made; *“It might suggest the possibility of diversion...”* although of course this would depend on the amount of information available; *“...but we need a lot more input from outside agencies at the very early stages”*.

The impact of maturity on the outcome of the case also depends on when exactly the issue of maturity is flagged - if it is only first raised in court, then the chances of a prosecutor discontinuing the case are much less likely as interviewees indicated that this is not an easy thing to do; *“it takes more time to discontinue a case than simply deciding to proceed with it”*.

Interviewees also suggested that, on its own, maturity would very rarely be powerful enough for a prosecutor to decide not to charge or to discontinue a case;

“Of course lack of maturity of itself doesn’t mean that somebody shouldn’t be prosecuted. You can be immature but still have a good knowledge of what is right and what is wrong. I wouldn’t discontinue a case on maturity alone”.

Interviewees also stated that in order for prosecutors to decide not to prosecute, due in part to maturity issues, there needed to be some sort of *“prognosis”* – i.e. there needs to be something put in place that can address the underlying problems which will reduce the likelihood of the offence happening again:

“there has to be something in place that’s going to prevent the commission of further offences... a care plan, if I can put it that way, but not necessarily a social care plan, but a plan in place to deal with the issue of lack of maturity”

One concern raised was that if the defendant isn’t mature “until their mid-20s” then what options are available to prevent them reoffending instead of prosecution? It appeared difficult for the interviewees to think outside of the current range of options available to them.

It was felt by many that maturity could have a role to play in assisting a prosecutor to use a conditional caution. It may not, however, enable a prosecutor to give a complete discharge as in that instance the defendant would not be given any positive requirements.

A significant number of interviewees thought conditional cautions were *“not used enough”* due to a lack of resources to “do anything meaningful with them” and also a reluctance on the part of the police to apply for one from the CPS due to time and resources;

“[Conditional cautions] are a good idea in principle and certainly could be used more but police at the moment are hesitant because we [the CPS] have to sign off on them”.

When asked about the potential of using conditional cautions more to deal with those who were found to have maturity issues, there was a consensus amongst some interviewees that maturity wouldn’t have much of an impact on the decision of whether or not to issue a conditional caution. However, interviewees overall felt there was more scope for conditional cautions for lower level offences across the board.

Young Adults and Maturity

The criminal justice system differentiates between adults and youths based entirely on the age of the offender. All those aged 18 and above are treated as adults, all those below as juveniles. However, some criminal justice agencies are beginning to look at the ‘young adult’ group, i.e. those transitioning between youth and adulthood, as a distinct group that need specific provisions and services as within this group there is now known to be a wide range of levels of maturity, possibly warranting variation in way the individuals are managed by the criminal justice system.

Interviewees were specifically asked how the CPS saw the young adult group. In general, they did not think that the CPS viewed them any different to older adults;

“You could have a 30 year old who has the same level of maturity as an 18 year old but it wouldn’t trigger to treat them differently”

Some interviewees were clear that they thought the division between the adult and youth system was arbitrary. And, as seen in the above quote, there was an admission that age does not always designate someone’s level of maturity. However, a pressing issue appeared to be practicality - there was hesitancy about how this understanding could be integrated into the system and there was a feeling that *“a line had to be drawn somewhere”*, even though this was perhaps inappropriate;

“Generally 18 is accepted as an adult in this country, but then of course it depends on what type of life they have led so far”.

Some interviewees considered it infeasible for the CPS to treat the young adult group as a distinct cohort of defendants. Instead they felt that it was a sentencer’s role to take a defendant’s age into consideration when deciding on a sentence; *“the courts will be able give more concessions to young adults than we can. I think it’s at the forefront of their minds”.*

The majority of those interviewed felt the current age of 18 was an appropriate demarcation between the adult and youth justice systems. Some interviewees indicated that they thought taking into account the maturity of children was in some way more appropriate than for young adults. The reasoning and justification for this was being based on their expressed views that maturity is the ability to understand the consequences of actions.

“Once you are 18 you are an adult and really should know better unless there are specific underlying reasons and issues, mental health issues, whatever that would explain if you like any offending behaviour. If we are now saying 20/21 year olds can almost be excused by an element of immaturity [then] I can’t imagine how that would actually work...when we are dealing with youths we are talking about children aren’t we. It is very different.”

“Most young adults are immature; it’s why they are in the CJS in the first place. Where would the cut off be?...At 21 people should be taking responsibility for their actions. The difference between a 15 year old and 21 year old is worlds apart. How would you explain not prosecuting a 21 year old to their victim?”

Maturity was also seen by some interviewees to be solely a youth issue, with mental health issues being more important in regards to adults; *“with adult offenders, those over 18, unless that adult offender has got obvious psychiatric or learning disability needs it isn’t a question that is generally asked”.* However, one interviewee felt that prosecutors subconsciously will still usually factor maturity into their cases:

“When you are given information that relates to the background or emotional maturity of a defendant of whatever age, if there are issues around their maturity it will inevitably be a factor that will be considered.”

Despite an admission by some that young adults who come into contact with the criminal justice system may be immature (in contradiction to some colleagues who actually felt that coming into contact with the criminal justice system multiple times was a sign of maturity), maturity by itself wasn’t felt worthy enough to be relevant as a standalone factor because interviewees still felt that defendants *“should know better”*.

These findings perhaps raise an important point that prosecutors need to feel able to justify to the public what they take into consideration when making decisions. Therefore, in order for them to feel able to take maturity into consideration in a more explicit way when working with young adults, then the public

also needs to accept that maturity is a relevant factor. And those who were interviewed generally did not believe this was the case. And yet, in a 2011 poll, two thirds of the public supported the view that maturity of young adults should be taken into account in the sentencing process. In addition, the poll found that respondents considered developmental maturity to be more important than chronological age.²¹

When interviewees were prompted about the situation in other jurisdictions where young adults can, in certain circumstances, be processed through the youth courts, some felt that this might be counterproductive. This was because an individual's first appearance in the adult system can carry some mitigation, potentially leading to a less harsh sentence than they might have received were they in the youth system.

The Introduction of a new code

The new Code for Crown Prosecutors, recently approved and adopted, now explicitly references maturity as part of the culpability test within public interest requirement.

The likely impact of maturity being explicitly referenced

Resoundingly, interviewees felt that having maturity expressly part of the public interest test was a positive development and would, at the very least, make prosecutors think more about the issue when they approached cases;

“Because it's in the code it will remind all prosecutors to take maturity into account when they are making a charge”.

“I think it will bring to prosecutor's and defence lawyer's attention something to look at, I mean we should be looking at it anyway, but when the word is there in black or white there's a lot more focus to it”.

However, interviewees found it extremely difficult to try and predict the effect this new measure will have as they felt this was dependent on other factors. For example, some interviewees felt that the extent to which it will make a difference depended upon whether they were given further support and assistance;

“I think we would have to have a lot more assistance in how we are going to apply that in practice or otherwise we would end up with some real inconsistency in our approaches to charging decisions”.

Another interviewee wondered whether a requirement would be placed on police officers to provide prosecutors with information on the maturity of young adults, and whether police officers would themselves be required to consider this information when making charging decisions. They stated that if it was simply a 'tick box' exercise for the police, then potentially even more cases with maturity issues could go by unnoticed.

Several interviewees felt that the new measure would not “*make that much of a difference*” to them in practice as, in their experience, they “*already take [maturity] into consideration anyway*”.

Although it is the first time that maturity has been made explicit within the Code, a Chief Prosecutor did not think this meant it would be the first time that prosecutors have ever considered it; the majority would have done so previously, but may not have consciously realised that is what they are doing. This was seen to be the case for other changes to the Code;

“..Although...[...].we check decisions are made within accordance to the code, prosecutors don’t necessarily suddenly latch on and see the new factor to take account of, because that is what they are already doing”.

One concern was raised about where the relevant information on maturity was going to come from in a practical sense. It was already seen to be difficult to get the information for juveniles and it was felt it would be even more difficult for 19/20 year olds;

“It is difficult to see where you would get something tangible from... it’s difficult to know where the opinion is going to come from if it’s an adult and there aren’t all these other surrounding organisations and surrounding requirements [as in youth cases], with all youth cases for example you must consider their welfare and consider their best interests”.

“I don’t know as a humble foot soldier how you are going to be able to do some sort of maturity assessment on an 18/19 year old, especially if they have never come to the attention of the CJS before. There won’t be any previous youth offending input from their time as a child, won’t be any previous knowledge from anyone on the ground level”.

Is there a need for further information and guidance about what is meant by maturity?

Interviewee’s uncertainty over the potential impact of the new Code was in some part derived from an apprehension over a lack of shared understanding about what maturity means;

“People are going to have different ideas about maturity”

“[The new measure is] helpful but... how are they expecting us to measure [maturity] and on what basis – that is going to be interesting”.

In order for the new measure to have a significant and consistent practical impact, interviewees were clear that there was a need for further information about maturity and greater guidance on the meaning of the term;

“I think if the CPS bring out a policy saying you have to take into account maturity they are probably going to have to explain maturity so that everyone understands the sort of factors that you have to look at as opposed to just a word. Go away and consider maturity. Thanks, but what is maturity?”

“The first thing you need is you’ve got to have a clear definition of maturity that everyone works to. Rather than just using this word there has to be a definition of what you are looking for, ‘what is maturity?’.”

Specific case studies in particular were thought to be valuable, although this was seen to be quite difficult to provide practically. Once again, interviewees stated, *“the more information the better”.*

There was however a reluctance towards anything too prescriptive and interviewees did not want to see the creation of a new legal definition;

“Frankly I don’t think a) you can and b) it would be dangerous to try and do that. I’m very cautious about introducing anything other than [something that] gives us full information [and which could have] a direct impact around our decision making”.

Interviewees also expressed the need to allow for a degree of discretion;

“There has got to be an element of judgment, I don’t know whether I’d want to fetter that too much”.

Two interviewees with extensive experience in youth cases were also hesitant about bringing in overly stringent guidelines on maturity and they were apprehensive that a new strict test would be introduced. They stated that this apprehension was due to the now extinct 'doli incapax' rule that used to have to be applied in all juvenile cases which was thought to take up too much time and force unreasonable and harmful delays.

Interviewees generally indicated that they would be surprised if some form of guidelines weren't drawn up about maturity to coincide with new code. However they also suggested that the next issue would then be ensuring that prosecutors pay attention to them, particularly when faced with a range of competing priorities.

(i) Additional training

One way of improving the knowledge of maturity among prosecutors would be to provide them with some additional training specifically on this topic. This was a welcome suggestion by most interviewees. One concern raised however was that many prosecutors struggle to simply keep up with the high number of new developments across criminal justice, and maturity may not be seen as a priority;

"I would personally be the sort of person who wants to know more things about my job and I would certainly welcome [training], but pragmatically whether there is any realistic possibility of there being any sort of training or information disseminated around [maturity] when there are certainly other more pressing matters and needs, I don't know...I wouldn't prioritise it, there is lots of other new stuff that is coming out. And it may well be that [this] will be similar [for] a great many people across the organisation".

This is an important note of caution, but on its own did not detract from the view that further training would be welcome. It was suggested that training may need to be carried out in an informal manner through, for example, the use of case studies during standard settings in order for prosecutors to see how decisions around prosecuting cases dealing with maturity should be approached.

It was also felt by some interviewees that for any training for prosecutors to be successful it would also have to be combined with similar training for the police. This was deemed vital to the success of increasing the profile of maturity within the courts and the CPS.

(ii) Expert Maturity Prosecutors

The interviewees who participated in this study all had a high level of expertise and many had significant experience of working with maturity issues within the youth justice system. As a result, they all felt that they would be adept at identifying when young adult cases involved issues around maturity. They did however recognise that this may not be the case for their colleagues;

"I know the sort of the things we are looking for, but another prosecutor may not have dealt with those cases and doesn't know the sort of things to look for, that kind of thing".

It was suggested to the interviewees that one method to try and mitigate this was to develop a form of maturity assessment, but concerns were raised over how it would operate in practice. Interviewees admitted that although, in an ideal scenario, a uniform independent maturity assessment would be carried out by medical professionals on all young adults, this could be unfeasible due to the difficulties associated with ensuring the test was accurate, the enormous impact it would have on financial resources and the inordinate delay it would routinely cause.

A few interviewees suggested that when an issue of maturity was thought to be present in a case with a young adult, relying on an improvement in the procedure for flagging the issue, then only experienced prosecutors or youth specialists should be used. However, only in extreme circumstances should independent external assessments be used, as the experience of prosecutors should suffice for the most part.

Yet even with the use of expert prosecutors, it was recognised as somewhat inevitable that defendants would still “*slip through the cracks*” and be charged and prosecuted when later it might be deemed as inappropriate. This is the case with maturity issues for youths where the information is simply not available and the defendant fails to present any obvious signs of an issue.

This is not to say, however, that other prosecutors should not routinely look for issues of maturity within their cases; it was not felt practical to develop a whole new raft of prosecutors who were specialists just on young adults. Specialist youth prosecutors will not be able to be assigned to every young adult case, as it could risk wasting their time to an extent. Ideally some form of trigger mechanism would be developed, “*but it would hard to practically put one in place. It would have to take place in court but the issue with that is it is already almost too late*”.

The Role of the Police

The relationship between the Police and the Crown Prosecution Service has changed considerably over time. When the CPS were first formed the police retained control over all charging decisions. This gradually changed and the CPS now has control over decisions around charging in most cases that are more serious than summary convictions. Powers over charging have been reverting back to the police over the last few years, however, and recently the police have been granted the power to issue conditional cautions without the need for consent from a prosecutor.

Because the police currently undertake all the background evidence gathering for prosecutors, their relationship is extremely important. It was expressed by the interviewees that at times they are, along with their colleagues, slightly frustrated with the police for arresting too many individuals in what they would very often see as being inappropriate situations, and likewise the police are slightly frustrated with them for not proceeding with cases due to public interest or evidential reasons. When questioned about the relationship between the Police and the CPS, interviewees commented that in the past when they were co-located relationships were generally more positive and communication was easier.

When deciding on charging, prosecutors look at whether there is sufficient evidence to charge someone, and whether a prosecution is needed in public interest. In general, interviewees reported that the police were relatively good at the evidential requirements. However, their knowledge and application of the public interest test was seen as being extremely poor;

“If [the police] charge someone it’s a big tick in their figures, they aren’t as interested therefore as us in public interest...their guidance on the public interest seems to be a lot different to ours in that you very rarely see a proper public interest determination when police charge a case”.

As part of this, the interviewees did not feel that the police always sufficiently took maturity into consideration. Many examples were provided by interviewees of where police officers had attempted to charge a youth who was clearly very young and very immature when prosecutors had felt it wholly inappropriate to do so. Given these accounts from within the youth justice system it is perhaps concerning the extent to which maturity would be taken into consideration by the police for young adults.

There was however some understanding from interviewees that the police “*are very pushed for work load and everything like that so maybe they don’t have time, it’s not going to be the first thing that they think of*”.

Interviewees did, however, feel that there needed to be more training in general for police officers about both public interest considerations and the concept of maturity.

The Role of the Defence

The Defence was considered to play an extremely important role, alongside the Police, in providing information relating to the defendant to inform the prosecution.

Prosecutors stated they will often be accommodating to defence lawyers prior to charge in cases where the defence has serious concerns about their client. However, issues of maturity are often not detected until during the prosecution, and within the court, which limits the ability of the defence to gather the necessary information. Defence lawyers may also not have the resources to pay independent professionals to look at their client's maturity;

“Most defence lawyers would be routinely aware of maturity as an issue and try and look at it. Some are more alive to it than others. Sometimes defence won't have much time to see their client and in general some defendants may have issues but not present them in an obvious manner”.

The majority of interviewees did indicate that one likely positive result of the new Code would be to reduce the likelihood of this and persuade defence lawyers to pay greater attention to the issue and perhaps raise it more often than they presently do.

It is also important to note that prosecutors will very often not get the chance to decide on the prosecutions and charges of individuals where the police have retained powers and the offender has decided to plead guilty. They effectively have little to no control in these circumstances.

Conclusion and Recommendations

There has been an increasing recognition of the role of maturity as a factor in the commission of crimes, particularly for the young adult group, within criminal justice policy.

The recent introduction of a new 'Code for Prosecutors', which makes explicit reference to maturity when determining the public interest test, represents a new opportunity for prosecutors to consider the maturity of young adults with greater transparency and acknowledgment, as is currently the case within the youth justice system.

This recognition of the role and influence of maturity also presents the future possibility of young adults being formally identified as a distinct group, with distinct needs, within the criminal justice system.

This research has found that within the Crown Prosecution Service there is a significant level of expertise in, and experience of, working with issues around maturity, but that in order for the new measure within the code to be implemented in a way which ensures both its consistent and correct application a number of further changes are required. We therefore recommend:

1. Training and guidance about maturity should be available to the CPS, Police, and defence lawyers

Although there are a number of prosecutors, police officers, and defence lawyers who are familiar with the issue of maturity as a result of their experiences of working within the criminal justice system, many are not. For this reason, training about maturity should be introduced. This training will work to highlight the new measure within the code, as well as raising the profile of the issue. It will also assist individuals from the respective agencies in understanding how to flag maturity concerns, and will build up practitioners' knowledge of where to seek information on a defendant's maturity.

This training could be carried out through standard setting, whereby case studies are posed to a number of prosecutors and together they look at how they exercise their judgment in prosecuting decisions. Cases that have specific issues around maturity could be introduced. This enables development without additional formal training, which may not be currently feasible within the CPS.

Simultaneously, guidance should be developed on the meaning of maturity so that all parties can have a shared understanding of the concept. Amongst prosecutors this would ensure a certain level of consistency whilst still allowing scope for individual discretion. Providing a narrow definition would be restrictive and fail to cover every single situation, therefore we recommend guidance. This need not be vast amounts of complicated scientific research but general information around emotional, social and neurological development.

Such guidance would also ensure that the police are working to the same understanding, thereby increasing the likelihood that they will be able to successfully gather the relevant information so that individuals with maturity issues no longer pass through the system undetected.

2. Protocols should be developed between the Police, CPS and other local agencies for gathering and sharing information

Determining the maturity of an individual, and whether or not it is sufficient to impact on a charging decision, will ultimately almost always come down to the individual judgment of a police officer or prosecutor. They will base this on the relevant evidence and information available to them. There are currently significant barriers around sharing certain information and knowing which specific agencies to contact in order to gather the relevant background on an individual's maturity.

Therefore, we recommend that simple protocols be developed between the Police, CPS and other local agencies when investigating the maturity of an individual. This would help to minimise the amount of

resources used, as well as improve the working relationship between agencies. The protocol should include what type of information should be shared and who is responsible for retrieving and collecting it.

3. Agencies should strengthen and maximise the use of the Conditional Caution for young adults

Conditional cautions were seen to be very useful, but underused, by prosecutors. Powers for granting conditional cautions are increasingly reverting back to police officers, however, prosecutors will still have discretion to encourage or advise police officers to use them where they believe it is appropriate. We strongly recommend that prosecutors should seek to increase the use of conditional cautions for young adults with developing maturity, given the lasting repercussions that going through the court process can have on them and their lives. This will require some prosecution regions to research their current use of conditional cautions in comparison to other regions, and where the greatest potential benefits may lie.

Greater efforts should also be made to align and develop the conditions attached to such cautions, with young adults in mind. These conditions should demonstrate young adults are addressing the offence they have committed and working to prevent reoffending. The public believe maturity should be taken into account when sentencing an individual and therefore could be in favour of alternatives to court for minor offences, so long as there is something robust and effective put in place, and that the victim (where there is one) is kept informed of progress and outcomes. Restorative justice and reparation could be actively considered in this regard.

4. There is scope to explore the introduction of problem solving approaches in the Courts, where maturity is identified at the prosecution stage

Diversion and/or referral into appropriate services could be expanded within the courts as part of a problem solving approach. With the active engagement of the prosecution and seeking a better outcome for victims of crime, a problem solving approach seeks to identify the underlying causes of offending and use the Court as a means of referring people into support to tackle these issues.

Problem solving involves the joint working of sentencers, prosecution, defence, and court staff to respond more creatively and effectively to crime, and could have particular application for young adults with developing maturity. Referral into services that support young adults could happen before, alongside or after sentencing.

Case Studies

Together Women Project

In 2008, Together Women Project Yorkshire and Humberside (TWP) took part in a pilot between Leeds and Bradford working closely with the Crown Prosecution Service to introduce a Women Specific Condition as an appropriate disposal. The women specific condition is a disposal for low-level, low-risk women offenders, which responds to the recommendations made in the Corston Report. The pilot was successful with 81% of women completing their requirement and over 75% of women continuing to engage with TWP on a voluntary basis.

Since this successful pilot, Together Women Project has been increasing their presence across custody suites in Yorkshire and Humberside. Working alongside the CPS and others, the projects aim to divert women at point of arrest and provide women specific, responsive services which address the issues that may lead a woman to offend.

Prosecutors were well informed by the project staff about how the service operates and what outcomes were expected from the women involved. Because of this high level of understanding about the service, local prosecutors were more confident about women being directed to the TWP services as a preferable alternative to prosecution within the courts.

Prosecutors were, and continue to be, supported in their use of such programmes by the level of public support towards diverting women to non-criminal justice services. In addition, concerns regarding women and the negative impact that imprisonment has on their mental health, wellbeing and families have been well documented over the past few years, and this has also encouraged prosecutors to use alternatives where appropriate.

In December 2012, TWP launched a women's triage alongside Humberside police. This service sees all women in custody offered to voluntarily attend, or given the condition to attend, TWP as opposed to a caution or fine. If it is successful, the service will be offered to women outside of custody as well.

The TWP services are successful in helping women to address their issues and reduce their offending, and also effectively reduce court and prosecutor's time and the unnecessary use of resources, whilst not further jeopardising public safety as reoffending rates do not increase. The Together Women Project services offer a helpful model which could potentially be replicated for use with young adults.

Diversion in Scotland

In Scotland, offenders for whom formal criminal justice proceedings are considered unnecessary are referred either to social services or other agencies – effectively bypassing any public interest test for a prosecution.

The individual moves into one of a number of ‘diversion schemes’, each with the aim of addressing the underlying causes of offending. This process is a direct alternative to prosecution and is designed to prevent individuals being prematurely up-tariffed, receiving a more punitive sentence than they previously have, into a custodial sentence.

Prosecutors (known as Procurators Fiscal in Scotland) play a key role in identifying which individuals reported to them by the police are suitable for diversion, and for whom diversion will have a greater impact on reducing their future offending behaviour than a prosecution would.

In 2000/2001 a ‘National Diversion from Prosecution’ scheme was rolled out, applying to offenders of all ages but targeted mainly at 16/17 year olds. It should be noted that people over the age of 16 in Scotland appear in adult courts, those under the age of 16 are under the authority of the Children’s Hearing System. The approach was designed to prevent a person, who has committed a relatively minor crime and does not represent a significant risk of harm to the public, from being prematurely up-tariffed.

Under this scheme, one agency such as social work, addiction services or restorative justice is responsible for managing the diversion programme. Normally someone on diversion takes part in individual and/or group work sessions which cover a range of issues such as offending behaviour, alcohol and drug use, social skills, education, employment and training, and problem solving. A report on the individual’s progress is required by the prosecutor after three months.

The experience of well established diversion schemes²² shows that careful preparation of a case plan, close working links between local agencies, and good background information about the individuals referred to the scheme from the police leads to positive outcomes, including a reduction in reoffending rates.

22 Fraser, A. and MacQueen, S. (2011) Evaluation of Early and effective intervention and diversion from prosecution in Dumfries and Galloway. Scottish centre for crime and justice research; Bradford, B. and MacQueen, S. (2011) Diversion from prosecution to social work in Scotland. Scottish centre for crime and justice research.

Appendix: Topic Guide

What is the current understanding and scope of ‘maturity’ within the crown prosecution service?

- What do you personally believe is meant by the maturity of an individual?
- Is your personal belief the same as the one you apply professionally?
- Do you believe your colleagues share your opinion? Does the CPS in general take a similar view point?
- Do you feel the CPS shares the same idea of maturity that other criminal justice agencies do?
- Would it be helpful to be provided with more information about the issue of maturity generally?
- How does the CPS view the young adult group?

To what extent and how is maturity assessed by prosecutors at present?

- What are the triggers that bring the issue of maturity into consideration within a case?
- Who is responsible for raising the issue of maturity?
- Once the issue of maturity is raised how does the CPS determine the maturity of the individual?
- Where does the CPS get the relevant information? Is sufficient information routinely obtained?
- What role do other criminal justice agencies play in this?
- Is there anything that could be put in place that could assist the CPS in this procedure?
- Are there specific barriers that prevent maturity having a more significant role?

What impact will the inclusion of ‘maturity’ in the Code have on practice?

- Aside from the two offences where maturity must expressly be taken into account does maturity play a significant role at present in deciding whether or not it is in the public’s interest to prosecute a case?
- Are there other reasons for maturity to be brought into focus by the CPS?
- If maturity was to generally be an express element within the Code for Prosecutors in deciding the public interest of a case would this have a significant effect in practice?
- What differences could this have in practical terms:
 - determining whether or not to discontinue with conditions,
 - liaising with police to facilitate a conditional caution,
 - passing information on to probation,
 - making informal recommendations for sentencing.
- What practical steps could be taken to ensure the CPS take greater consideration of maturity?
- Is there a need for specific guidance on the concept of maturity? Is there a need for expert assessment?
- Will greater assistance be need from other agencies?
- What role should defence lawyers play in regards the issue of maturity?

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