

From a 'difficult sell' to no 'controversy'? Young adults and transitions in the criminal justice system

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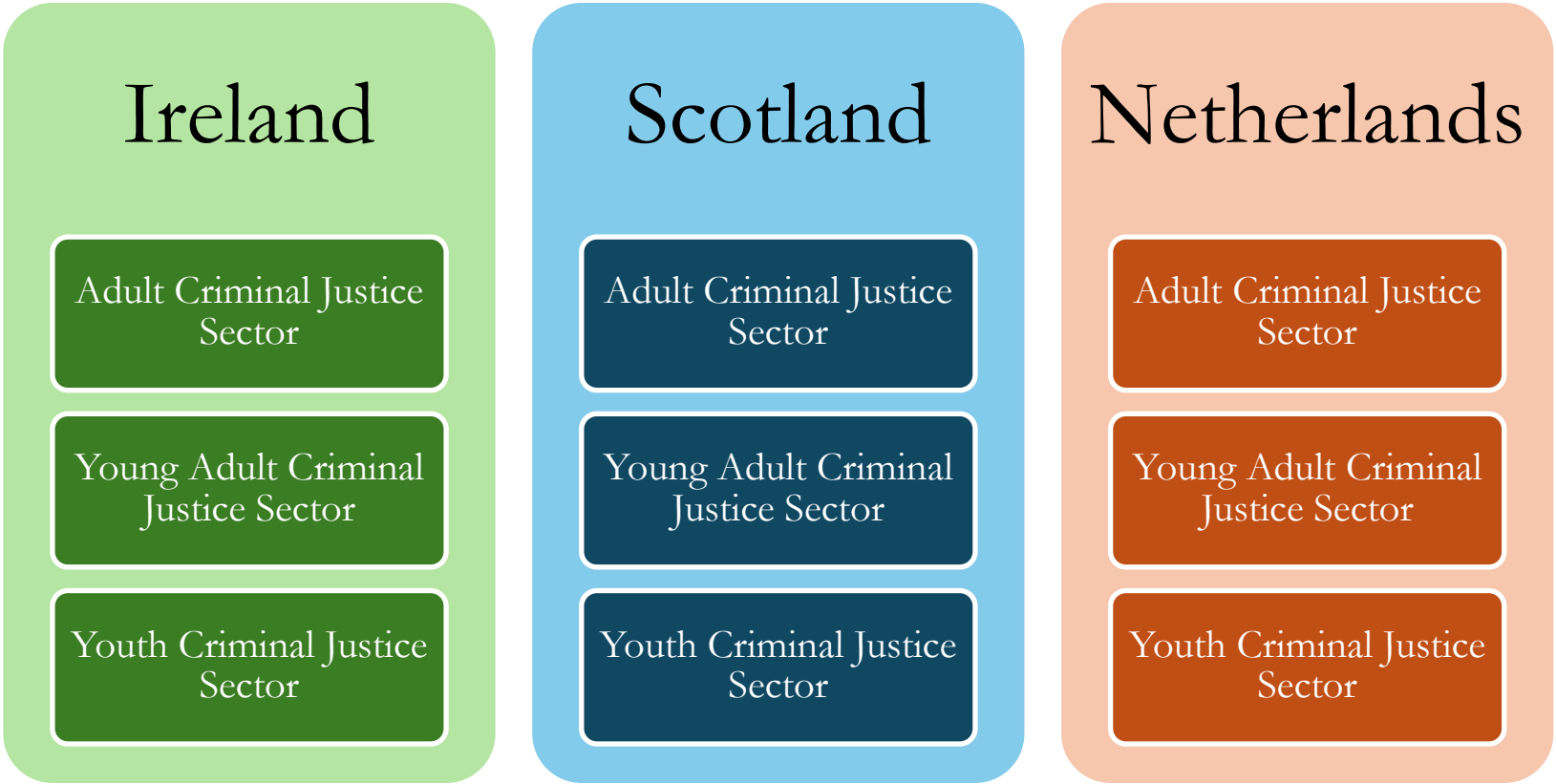
Young adults and transitions

Goldson et al., (2021: 194): the age at which **young people ‘might enter and exit’ youth justice systems** require serious review.



Context

- Alternative Disposals
- Policing
- Sentencing
- Imprisonment / Detention
- Prison/ Detention conditions
- Human Rights Compliance*



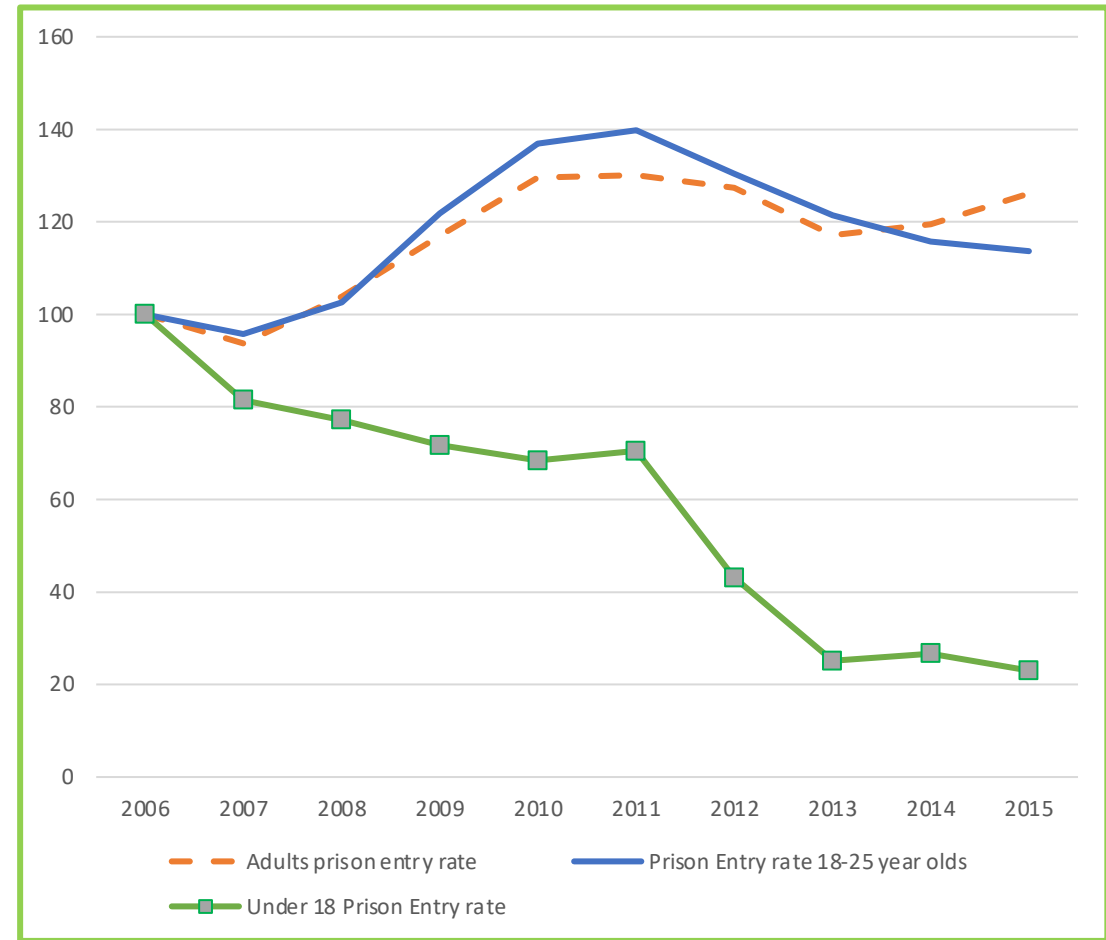
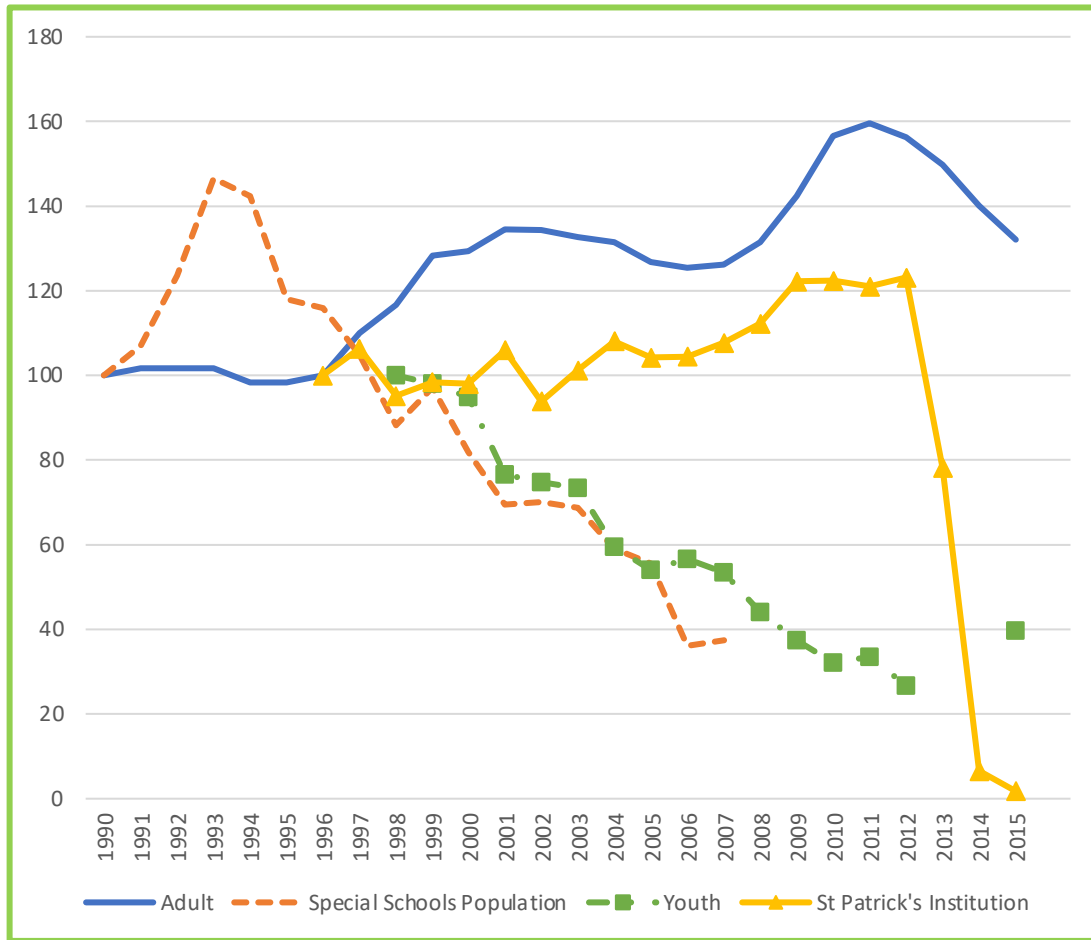
Contingent Divergence

Convergence



Why?

IRELAND



Adult imprisonment rates, Special Schools average population in Ireland 1990-2007 using 1990 as an index year, St Patrick's Institution detention rate (16 to 21 year olds) in Ireland 1996-2015 using 1996 as an index year and youth detention rates 1998-2015 using 1998 as an index year

Adult Prison Entry rates, Prison Entry rates for 18 to 25 year olds, and Prison Entry rates for under 18 year olds in Ireland using 2006 as the index year

Why?

Decline in juvenile crime rates	42% fall in juvenile imprisonment rates across 30 member states in the past 10 years (Eurostat) - see previous graphs.
Age-crime curve	‘it is unarguable, you know I mean the cliff-edge , doesn’t just happen just because it’s your 18 th birthday you suddenly become endowed with magical powers’ (Irish interviewee #5).
Scientific insights	‘many of the [young adults] who have come through [the criminal justice system] as teenagers at th[at] stage do not just [have] your normal brain development but they will have huge issues, they might have attachment [issues], they might have mental health issues, so they are even more affected and the idea [they] suddenly get adult sentence is terrible’ (Irish Interviewee #5).
UNCRC General Comment No. 24 (2019)	‘32. The Committee commends States parties that allow the application of the child justice system to persons aged 18 and older whether as a general rule or by way of exception. This approach is in keeping with the developmental and neuroscience evidence that shows that brain development continues into the early twenties. ’

International perspective

1. Countries with special regulations within the juvenile law that can be applied to young adults, albeit under specific conditions

- e.g. Germany, the Netherlands

2. Countries in which young adults are eligible for the mitigation of punitive sentences

- e.g. Finland, Sweden, Scotland, England and Wales

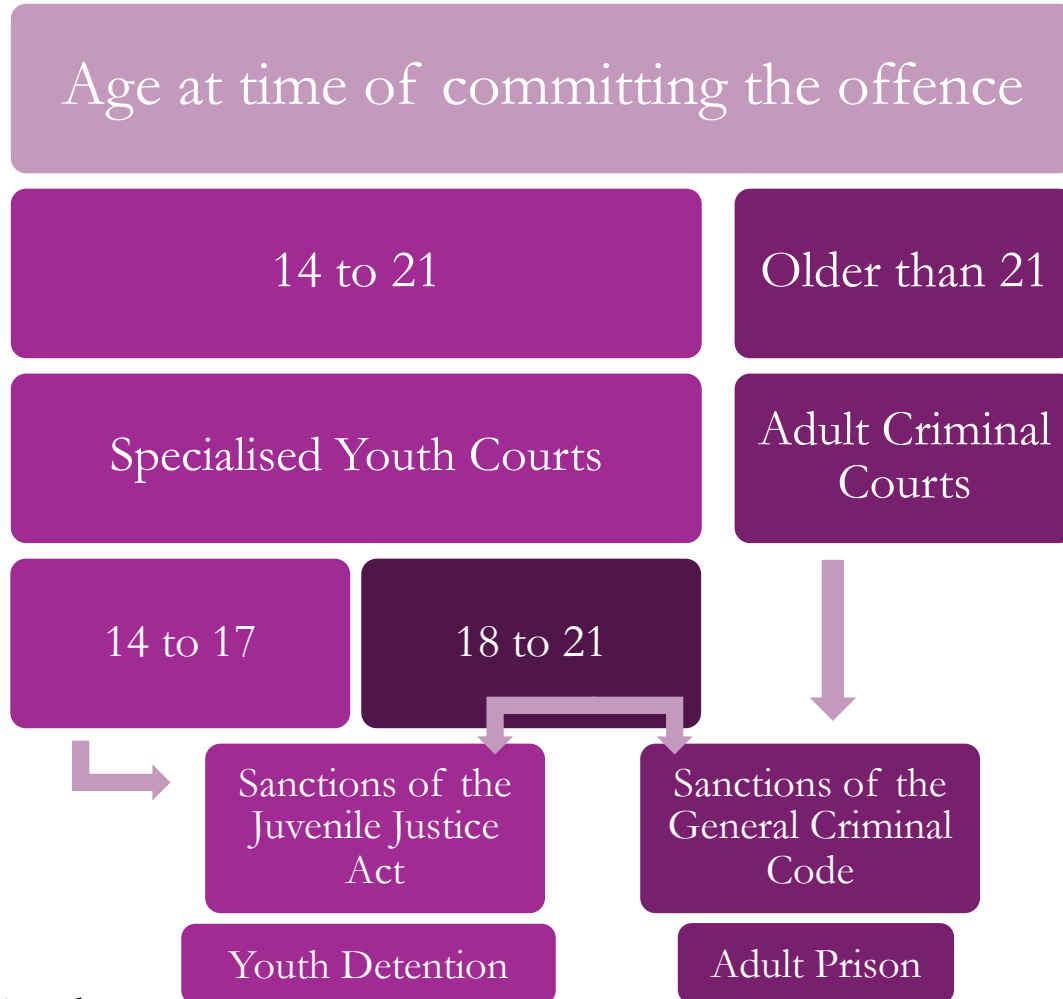
3. Countries with some distinct treatment of young adults in relation to imprisonment

- e.g. Scotland, England and Wales, Northern Ireland

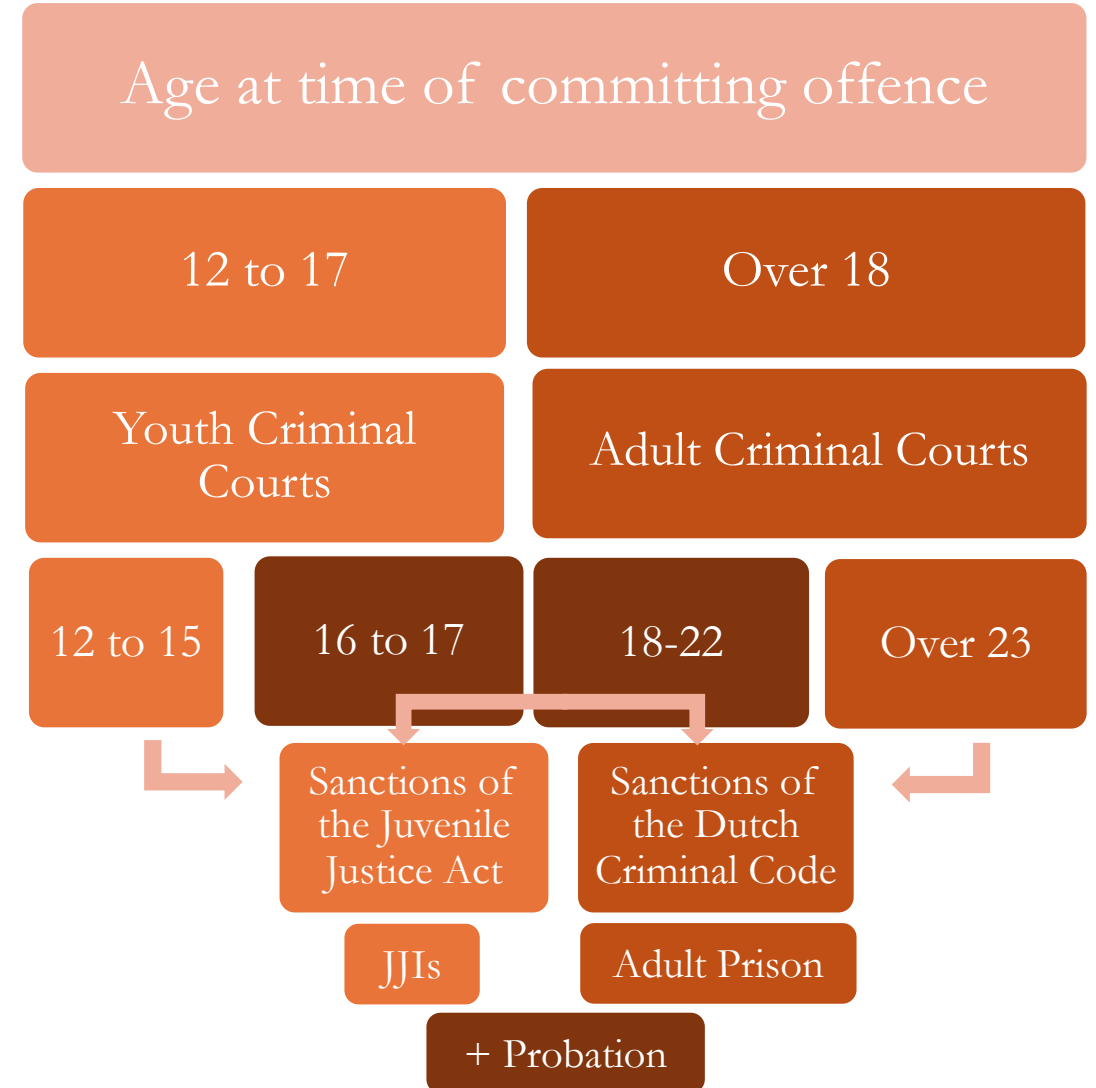
4. Countries where there are no special rules for young adults

- e.g. Bulgaria and Ireland

Germany



The Netherlands



Scotland

Ireland

Age at time of committing the offence

12 to 15

Over 16

Children's
Hearing
System

Criminal Courts

Children's
Hearing
(Scotland) Act
2011

16 to 21

16 to 25

Over 22

Secure
Accommodati
on

→ Young
Offender
Institutions

Sentencing of
young people
guidelines
2022

Adult
criminal
law/Prisons

Age at time of committing the offence

10* to 17

Over 18

Children's
Court or Adult
Criminal Court

Adult Criminal Courts

Oberstown
Children Detention
Campus

18 to 21

Over 18

YPP can be
extended if already
in the YPP

Adult Prison

Reform

Significance of the neuroscience research
& focus of policy makers on the effectiveness of a new
approach to young adults

‘they were using the new research on brain, brain research that showed until 23 their brains are developing... especially because ... the policy makers thought it would be more effective, so they said we should look more to the possibility to impose a youth sanction to a young adult and we brought them up to 23, not only to 21 but to 23’ (Dutch Interviewee #1).

‘the brain development of younger adults can last well within their 20s and there was more awareness that young adults have the same troubles and problems as juveniles and we should approach them differently and that the effect of doing [the] what works system that was developed in juvenile penal law would also apply to them’ (Dutch Interviewee #3).

Overrepresentation of young adults within the crime statistics and significance of neuroscience research *prompted a political response* to create a distinct approach to this cohort. The introduction of the 2014 Act in the Netherlands: ‘it *wasn’t even controversial* at the time’ (Dutch Interviewee #2).

Willingness to innovate

‘You have to be always conscious that you need to be able to *sell this politically* to the wider community and with the level of offending that goes on in the 18 to 24 age group compared to other age groups it is a *more difficult sell* (Irish Interviewee #2).

There is a ‘*lack of understanding*’ (Irish interviewee #1) about the needs of young adults, which in their view ‘was nobody’s problem’ (Irish interviewee #3).

‘As a society, I think we are less open to arguments for *investing more resources* in dealing with offenders... there isn’t a *political will there* to invest in resources’ (Irish interviewee #6).

‘There has *never been a political priority*... too hard to do, just one of these things, we will get around to it, but the thing is a mess...’ (Scottish interviewee #4).

‘*Lack of sufficient thought, engagement and courage* to do it... it has probably just been easier because it is too hard to just let it go and say well we have now got a system where in fact up to the age of 21 there is certain safeguards [already]’ (Scottish interviewee #4).

Collaboration between the adult and youth justice sectors

Senior Civil Servant: 'it's always been a challenge to have that continuity across the youth, the young adult and adult systems. Especially when we had two departments [children and justice] dealing with it' (Irish interviewee #2).

May have been 'that *fragmentation of responsibilities*' and 'consistency was difficult where one department were responsible for up to 18s and the other department were responsible for everybody over 18' (Irish interviewee #2).

'*these young people [adults] are the missing bit*, like really they get so little attention because there has been attention on children and attention on adults but there is a real need to think about this group' (Scottish interviewee #5).

With the different departments 'if an issue falls between two stools *it usually falls*' (Irish interviewee #7).

Challenges

Ireland

Stagnation within the youth justice has exerted a protective effect and benefited the system from punitiveness.

Scotland

The Kilbrandon ethos linked to Scottish identity has resulted in a reluctance to change the system

Netherlands

More agile and responsive to pressure for reform

Strong historical and cultural protective factors created a path dependency

More open to change, including openness to progressive approaches

Mixing of young adults and under 18s

‘so the institutions we have now the population grew older but also more complex, really, really complex. Sometimes we were talking about regular units, I said but we don’t have regular units because we don’t have regular kids anymore’

(Dutch Interviewee #9).

Transitions out of Young Offender Institutions

‘if you think of somebody that has been in this type of environment from say 14, and if they have got a life sentence and we are moving them on at 21, 23 they have been in this encompassing care environment... and then they are jumping into an adult area, it is very... different relationships, different boundaries, different environment, different atmosphere’

(Scottish interviewee #7).

Sufficient resourcing

Despite ‘the enthusiasm [that] was there right at the start... *we didn’t just have the resources for it.*’ (Irish interviewee #13 on an 18 to 21 year wing in Wheatfield Prison).

These separate young adult institutions or units would have to ‘to be equipped to promote individual outlooks and positive trajectories and provide opportunities for personal development’ Pruin and Dünkel (2015: 72).

Practitioners 'buying in'
to it

A public prosecutor stated: 'it's a bit disappointing... at the same time, we didn't expect a very great change' (Dutch Interviewee #3).
'whatever guidance given is so broad and so generic.. that it's actually quite hard to get things ahead of judges and do things differently' (Dutch Interviewee #2).

Uniform approach by the
judiciary

'Well it's used very differently because it is the decision of the judge and different judges, different prosecutors... Difference in application' (Dutch Interviewee #9).
'the culture within the courts, we are asking the adult criminal court to apply this new law but they *haven't been really educated* [in the 2014 Act]' (Dutch Interviewee #5)

Specialised youth criminal
law prosecutors

'The juvenile punishments are shorter, so when the crime is too severe we won't go [to] apply juvenile law' (Dutch Interviewee #3).
The juvenile public prosecutors 'know these rules very well and they know how to apply the law', this is not the case for public prosecutors in the adult system for whom the rules and law are 'too complicated' (Dutch Interviewee #3).

Conclusions

- Goldson et al., (2021: 194): the age at which **young people ‘might enter and exit’ youth justice systems** require serious review.
- ‘Because of their immaturity, young adult offenders are more likely to benefit from the developmental approach taken in the juvenile justice system than from the adult system, which lacks this approach’ (van der Laan and Beerthuisen, 2021: 541).
- Importance of people championing the issue, practitioners ‘buying in’, the political will to use this practice and collaboration between the adult and youth justice sectors is paramount.
- Understanding key challenges is pertinent for any jurisdiction that is seeking to adopt or extend a distinct approach to this young adult offender cohort, particularly as more European countries move towards this approach.