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Briefing material on the establishment of a High Level Task Force on the interaction of persons with mental health and addiction challenges in the criminal justice system

Meeting with the Minister for Health Stephen Donnelly and the Minister of State at the Department of Health Mary Butler.

4:30pm, Tuesday 22 September 2020 (Minister and SG, Dep SG in 51 SSG. Officials to join meeting virtually).

Departmental officials in attendance – Secretary General Oonagh McPhilips, Deputy Secretary Oonagh Buckley and Principal Officer Deborah White, Criminal Justice Policy Function (Penal and Policing Policy) ([redacted]

Steering note

One of the key commitments in the Programme for Government (PfG) is the establishment of a high level cross departmental and cross agency taskforce to consider the mental health and addiction challenges of those imprisoned and primary care support on release (See appendix 1 for an Overview of the Mental Health Services in the Prison Service).

The opening of the new Central Mental Hospital (CMH) in Portrane this year is welcome. However, it broadly accepted it will not have the capacity to meet expected demand (detailed information on the current and planned operation of the CMH is attached at appendix 2).

Key to delivering cross cutting solid outcomes in this area is consideration of how best to deliver a revised model of care. Appropriate CMH in-patient and step down resources complemented by adequate prison in-reach and community forensic mental health services and supports are required.

While the focus in the PfG commitment is on individuals in a prison setting and following their release, consideration of the public health role in facilitating early diversion of persons with mental health and addiction challenges to more appropriate interventions at all stages of the criminal justice process would deliver enhanced outcomes.

A properly constituted Task Force with the support of both Departments can drive much needed transformation. It had been envisaged that the Task Force should be chaired by the Department of Health, however, the Department is open to considering other options. It is envisaged the Task Force will comprise senior officials from both Departments as well as the relevant agencies and any other relevant Departments.

Background

The healthcare needs of persons interacting with the criminal justice sector are complex and require whole of systems consideration and action. In 2012, work was undertaken on this matter via an Interdepartmental Group focusing on issues arising from the interaction of the criminal justice system and mental health services.

The Group's first report focused on how *diversion* at all stages of the criminal process could be facilitated. The second report in 2018 focused on matters relating to *mental health services* for prisoners, persons subject to community sanctions and post-release health services. It

also considered matters relating to patients detained under the Criminal Law (Insanity) Act 2006.

Discussions are ongoing between the respective Departments in relation to how best to take forward the publication of the 2nd Report without further delay.

In light of the Group's recommendations it was considered that a High Level Task Force was required to take the cross cutting work forward. The Department of Health were of the view, at that stage, that an operational level group would be more appropriate in terms of faster delivery of access to relevant services.

Current Policy Framework

The PfG recommends the establishment of a Task Force as part of Prison and Penal Reform. PFG also acknowledges the recent Mental Health Policy "Sharing the Vision" and commits to establishing the National Implementation and Monitoring Committee to oversee this work.

The IPS generally welcomes "Sharing the Vision" and that every person with mental health difficulties coming in contact with the forensic system should have access to a comprehensive mental health support system.

The IPS strongly supports the principle articulated in "Sharing the Vision" that people with addictions should not be excluded from accessing mental health services and that individuals with a dual diagnosis should get the best care available to assist their recovery.

This is of particular relevance in a prison setting where a shared case management approach is required. It is acknowledged that that a model of care pertaining to dual diagnosis needs to be developed and that this describes clear pathways with the tiered levels of support included.

The IPS also welcomes the resourcing and support for diversion schemes from the criminal justice system including the issue of possible legislative change if required.

Health Needs Assessment

The Health Needs Assessment Steering Group was established in 2018 following a memorandum of understanding between the then Minister for Justice and Equality and Minister for Health to take forward an independent review of the current and future delivery of appropriate provision of healthcare services to persons in custody.

The Group is chaired by the Department of Justice and comprises officials from the Department of Health and Dr. John Devlin, Clinical Lead, IPS. Executive Clinical Director of the National Forensic Mental Health Service, Central Mental Hospital (CMH), Professor Harry Kennedy, was recently invited by the Group to take part in the elements of the review relevant to his area of expertise.

The Terms of Reference for the Group were drafted with an awareness of the Report on Healthcare in Irish prisons published in November, 2016, by the late Inspector of Prisons, Judge Michael Reilly. The report specifically recommended that responsibility for the provision of healthcare should be transferred from the IPS to the HSE. The Terms of Reference of the Group (set out below) were agreed on 30 August 2018.

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Terms of Reference

1. To conduct an analysis of international best practice in the provision and resourcing of health and personal social services to prisoner populations;
2. To review and report on the provision and resourcing of health and personal social services currently available to the prison population in Ireland, within the context of the findings of the above analysis;
3. To conduct a health needs assessment to systematically identify the generic and specialist healthcare needs of the current prisoner population and estimation of future needs;
4. To make recommendations for the development of health and personal social service to prison populations in Ireland, based on the outcome of the review;
5. To develop an Action Plan and a resource framework to support the health and personal social service needs of the prisoner population setting out the timelines and milestones for this to be achieved, taking account of the need for a continuum of care from committal to release;
6. To recommend project structures to support the Irish Prison Service in the delivery of this Action Plan and provide access to appropriate expertise and advice in health and personal social services as part of project oversight structures; and
7. To submit a report to the Minister for Justice and Equality and the Minister for Health on the outcome of the Review of Prison Healthcare

The Health Needs assessment is underway by Crowe Ireland with a report expected to be delivered to the Steering Group by the end of this year. The report of the Steering Group is expected to be concluded and presented to both Ministers by the end of Q1. 2021.

Terms of Reference – proposal for a wider focus

As set out above, the opening of the new CMH in Portrane this year is welcome but is not the solution as additional specialist forensic mental health in-patient capacity will be required.

Supply will never meet demand under the current model and it would appear the structure is not conducive to the timely flow of patients through the system to meet their complex and changing clinical needs.

A revised model of care is required including appropriate CMH step down complemented by enhanced prison and community supports

While the focus in the PfG commitment is on individuals in a prison setting and following release, there would be a value to including consideration of the public health role in facilitating diversion of persons with mental health and addiction challenges at the outset and at all stages of the criminal justice process.

The adoption of a wider focus would also represent an opportunity for alignment with the development of a multi-disciplinary approach to Community Safety and work to implement the CoFPI recommendation on the development of crisis intervention teams to support having the right service in the right place at the right time.

Suggested Speaking notes

- I want to thank you for agreeing to meet with me today. I think this is a hugely important area of work that I feel we need to focus our attention to with some degree of urgency.

- As I outlined in my recent letter to you I know that, like myself, you are deeply motivated to delivering on the acute and complex needs of many people interacting with the criminal justice sector.

- This will require strong cross-Government consideration and action.

- The provision of appropriate mental health services to persons in custody is one of the major challenges to effective healthcare and indeed safety of staff and prisoners in our prisons.

- There is evidence, supported by multidisciplinary healthcare staff in all Irish prisons, of increases in the number of persons presenting with severe and enduring mental illness. I believe the same is also true of Probation Service clients and people coming into contact with An Garda Síochána.

- The capacity of the existing (and also the new) Central Mental Hospital is a concern for me and the lack of forensic mental health services across the country is a complicating factor.

- As I outlined to you in my letter, the Council of Europe Committee for Prevention of Torture has repeatedly identified the need to

develop more appropriate models of care to increase CMH throughput and alleviate the risks to individuals with severe health issues in an inappropriate prison setting.

- Just to give you some background to this work, I am aware that previous work in this area was carried out through an Interdepartmental Group established in 2012 to consider issues arising from the interaction of the criminal justice system and mental health services.

- The group's first report identified on how diversion at all stages of the criminal process could be facilitated.

- The second report in 2018 focussed on matters relating to mental health services for prisoners, individuals subject to community sanctions and post-release supervision. It also considered matters relating to patients detained under the Criminal Law (Insanity) Act 2006.

- I am informed that there has been some previous engagement between our respective Departments on a proposed broad based strategic approach to take the IDG's recommendations forward and that it was agreed that this work might be best chaired by your Department.

- Like I indicated in my letter, I don't have a fixed view on that and I would be interested to discuss this with you today.

- I believe that a properly constituted Task Force with the support of both our Departments can be truly transformational.

- I believe that we need to consider how best to deliver appropriate CMH in-patient and step down resources complemented by adequate prison in-reach and community forensic mental health services and supports.

- This is a key issue for me.

- However, I also believe we should include consideration of the public health role in facilitating early diversion of persons with mental health and addiction challenges to more appropriate interventions at all stages of the criminal justice process.

- I envisage the Task Force will prioritise the development of a cross cutting implementation plan to drive the delivery of focussed, time-bound actions and outcomes.

- As you will be aware, this is also relevant to the commitment in the Programme for Government to establish a National Implementation and Monitoring Committee to oversee the work of 'Sharing the Vision'.

- It is clear that addressing the complex healthcare needs of persons interacting with the criminal justice system requires collaborative and creative consideration and action.

- That is why I have proposed that the Task Force should comprise senior officials from our respective Departments, and other relevant Departments and the relevant operational agencies.

- I am very much interested to hear your opinions on these matters today and I look forward to making progress on this over the coming weeks.

Appendix 1: Overview of the Mental Health Services in the Prison Service

The provision of appropriate mental health services to those in custody is one of the major challenges to effective healthcare in prisons. There is evidence, supported by multidisciplinary healthcare staff in all prisons, of an increase in the numbers of person committed to prison presenting with severe and enduring mental illness.

The use of imprisonment is inappropriate for people with severe and enduring mental illness as prisons are not therapeutic environments. In certain situations, there are serious safety concerns for prisoners and staff because access to specialist in-patient forensic mental health services is limited and prisoners must be "managed" in an inappropriate prison environment.

The IPS has taken account of a number of reports on the challenges facing mental health services within IPS as well as international best practice. In general, these reports recommend early access (within 72 hours) to specialist forensic mental health at a national level, the need to provide adequate capacity in the CMH and to avoid an over-reliance on the use of Safety Observation Cells within prisons.

There is serious concern about the overall capacity of CMH whereby access from prisons is significantly restricted and the lack of availability of a National Forensic Mental Health Service in all locations.

The IPS generally welcomes the "*Sharing the Vision*" strategy and strongly agrees that every person with mental health difficulties coming in contact with the forensic system should have access to a comprehensive mental health support system.

The IPS supports the establishment of a Task Force to develop a revised model of care which will increase CMH throughput and which will address these matters as a priority. This would alleviate the clinical risks of managing prisoners with severe mental health conditions in an inappropriate prison setting.

Mental Health and Addiction

Information on the level of mental health conditions in the prison population is derived from studies done in 2003 and 2005, which found that drugs and alcohol dependence were by far the most common problems, present in between 61% and 79% of prisoners. Typically, prisoners were using multiple intoxicants, including alcohol, benzodiazepines, opiates, cannabis and stimulants.

For all mental illnesses combined, rates ranged from 16% of male committals to 27% of sentenced men, while in women committed to prison the rate was 41%, with 60% of sentenced women having a mental illness. For the more severe mental illnesses, rates of psychosis were 3.9% amongst men committed to prison, 7.6% amongst men on remand and 2.7% amongst sentenced men. Women prisoners had psychosis in 5.4%. This information, albeit dated, illustrate the scale of the challenge within the prison population.

Appendix 2: Central Mental Hospital (CMH)

The National Forensic Mental Health Services has confirmed that its current caseload includes up to **250** patients who are ordinarily in the custody of the IPS.

The IPS has access to a limited number of beds in the CMH for prisoners suffering from a severe mental illness who require residential mental health treatment. There is currently an average of 20 - 30 persons in custody (clinically assessed as requiring admission to the CMH by NFMHS Consultant Forensic Psychiatrists) each week awaiting transfer to the CMH.

A waiting list for the admission of prisoners to the CMH is operated by the NFMHS and is reviewed on a weekly basis. Over the last nine years, the number of prisoners on the waiting list has generally fluctuated between 5 - 33 prisoners.

The Executive Clinical Director (ECD) of the NFMHS advised that the number of admissions to the CMH annually has fallen from 57 in 2012 to 30 in 2016; it is understood that the level of admissions is mainly comprised of prisoners. The fall in admissions can be attributed to a number of factors, which include, inter alia, the level of acuity of admissions in the last 18/24 months, the impact of recommendations arising from the McMorrow Commission and perceived deficits in community mental health services.

The growth in the waiting list numbers represents an increasing risk for the IPS in safely managing prisoners suffering from a severe mental illness. At present, these prisoners are managed within the prison estate; however, this care is not comparable to what is provided in the CMH and represents a significant patient safety issue.

The absence of appropriate access to admission beds in the CMH exacerbates risk for the IPS in managing prisoners with serious mental illness, which for a small number is likely to be a prominent influence in offending. The low level of CMH admissions will likely witness a further increase in the IPS waiting list beyond 30, which will place additional strain on IPS healthcare and in-reach NFHMS services.

The opening of the new CMH in Portrane in 2020 is a positive development but it is anticipated that additional specialist forensic mental health in-patient capacity will be required. The NFMHS cannot specify how many of these are actually for IPS as the beds are determined by clinical need (for those in prison and those in the community). It has been estimated however that this will yield 6 additional male beds for IPS and 10 beds for women.

All prisoners are medically assessed on committal to prison. This includes a mental health assessment, which can be employed to develop an individual care plan. It should be noted that most mental health issues are managed by primary care. Where clinically indicated, the prisoner is referred to a forensic clinician who, subject to his/her findings, may make certain recommendations to the Governor for the care of the prisoner.

The IPS works with the Health Service Executive/National Forensic Mental Health Service (NFMHS) to ensure the appropriate provision of Psychiatric services to those in custody with mental health needs in all closed prisons.

In-reach mental health services are available in all Dublin prisons and in the Portlaoise Campus through collaboration with the NFMHS to provide forensic mental health sessions weekly in these prisons. Thirteen in-reach Community Psychiatric Nurses (CPNs) and two new social workers, attached to the NFMHS, are part of the in-reach multi-disciplinary teams. Since August 2019, a consultant psychiatrist has provided a mental health service in Castlerea prison.

Consultant Psychiatrist led services are provided to those in custody in Limerick and Cork prisons, by way of an agreement with the HSE.

The IPS, in collaboration with the NFMHS, has established two dedicated areas where high support is provided to vulnerable prisoners with mental illness – D2 wing in Cloverhill Prison (for remand prisoners) and the High Support Unit in Mountjoy (for sentenced prisoners). Both units provide a dedicated area within the prison where mentally ill and vulnerable prisoners, who present with a risk of harm to self or to others, can be separated from the general prison population and are closely monitored in a safer environment. The High Support Units have managed vulnerable and mentally ill prisoners in a more effective and humanitarian environment and have resulted is greater access to care and regular reviews by the prison in-reach team. With the increased resource allocation from the HSE/NFMHS, the establishment of other HSU's is under consideration.

The NFMHS also provide an assessment and liaison service for all other prisons. Clinicians in other prisons (outside of the CMH catchment area) arrange transfers to NFMHS services, mainly in **Cloverhill (D2 wing)** for remand prisoners, or to **the HSU in Mountjoy** (sentenced prisoners) where a prisoner requires a forensic assessment or access to an admission bed in the CMH.

D2 in Cloverhill has 22 cells including two SOCs. The maximum capacity of D2 landing is 27 prisoners and can accommodate those presenting with vulnerability to those with severe mental illness.

The HSU in Mountjoy prison can accommodate nine people at any given time with 2 people in transition back to the main prison population in the Low Support Unit. Oversight and throughput is managed by the weekly Multi Agency Meeting.

The IPS has developed a mental health awareness-training programme, which is currently being delivered to all staff. Training on Seclusion Policy and Critical Incident Stress Management are also provided. Further to this, people in custody in all closed prisons have access to the Samaritans Listeners Scheme.

The IPS is now developing a standard mental health awareness programme for all those in custody, to be delivered as part of the Red Cross programme in all prisons. There are also a number of multi-disciplinary groups that provide information and support in the area of mental health to prisoners.

In addition to healthcare input, the IPS Psychology Service provide ongoing evidence informed therapeutic approaches to those referred to the service who are suffering from mental health difficulties.