**High Level Taskforce on mental health and addiction challenges of persons interacting with the criminal justice system.**

**Briefing Note for first meeting on 28 April**

**Background**

1. The Programme for Government contains a commitment to establish 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. On 22 September 2020, the Minister for Justice hosted a meeting with other Ministers to start work on the commitment. On ???? March 2021, Government approved the establishment of the Taskforce and this will be its first meeting.

**Membership**

1. The Taskforce is led by the Department of Justice and chaired by former Minister for Mental Health, Kathleen Lynch. Membership is set out below:

* Department of Justice: (Ben Ryan, Assistant Secretary, Criminal Justice Policy. Deborah White, Principal Officer, Penal and Policing Policy).
* Department of Health: (led by Colm Desmond Assistant Secretary, and supported by Seamus Hempenstall, Principal Officer and Michael Murchan, Assistant Principal.)
* Department of Housing, Local Government and Heritage (Eamonn Waters and Graham Hopkins Homelessness Policy, Funding and Delivery Section).
* Department of Children, Equality, Disability, Integration and Youth
* HSE: Jim Ryan, Head of Operations for Mental Health Services, Dr. Eamon Keenan, National Clinical Lead-Addiction Services
* Central Mental Hospita:l Professor Harry Kennedy, Executive Clinical Director, Another Nomination to follow.
* Irish Prison Service: Dr. John Delvin Clinical Director, Enda Kelly, Chief Nursing Officer.
* Probation Service: Mark Wilson, Director
* An Garda Síochána: Paula Hilman, Assistant Commissioner

1. As set out in the terms of reference (see Appendix 1), the Taskforce will also consult with other relevant stakeholders, as required, such as the Mental Health Commission, Inspector of Prisons, Prison Visiting Committees, Irish Penal Reform Trust and academia.

**Main points**

1. A key objective of the Task Force will be to review and improve inter-agency co-operation and care options for those in prison, including greater diversion away from the judicial system.

The focus the Task Force will bring is to be welcomed, given two existing Justice reports on Diversion with detailed recommendations. However, the Taskforce should also avoid duplication with other Dept. of Justice Groups and initiatives, including :

* Integrated Group on Cooperation for a Fairer and Safer Ireland, which focuses on pathways for the integration of offenders, including access to health services in the community.
* Health Needs Assessment on health needs of the Irish Prison Service (details below under review of prison Healthcare).
* actions relating to the criminal justice system that are contained in the National Drugs Strategy, including appropriate treatment services for prisoners with addiction, which is the responsibility of the Irish Prison Service. On release, prisoners are entitled to avail of addiction services in the community.

**Background on Mental Health and the taskforce**

1. Significant advances have been made in the provision of Mental Health services which are of assistance to the criminal justice sector since the inter-Departmental group last reported (a summary of recommendations from both reports is at Appendix 2). These include:

* On 17 June 2020, the new mental health policy *Sharing the Vision* was published and the National Implementation Monitoring Committee has been meeting monthly to review progress*.* A HSE initial report on commencement of Phase I actions in 2021 is expected shortly.
* On 22 March 2021, the new HSE National Forensic Mental Health (NFMHS) complex at Portrane was handed over to the HSE and it is aimed to open in mid-July 2021.
* The Irish Prison Service and the HSE liaise on multi-disciplinary post-release care.

1. The Taskforce aims to submit a progress report by Q3 2021, and an Implementation Plan by end 2021. This is an ambitious timeframe. The capacity of the health sector to improve service links with the criminal justice sector will depend on overall resources available, and additional financial support from the Justice sector. Current responses to manage Covid-19 in the health sector will also present a short-term challenge.
2. A key feature, based on collective experience, will be to consider “working SMARTER, rather than just relying on significant additional resources”.

**Dual Diagnosis**

1. To avoid duplication with existing structures, it is suggested that the reference to addiction in the TOR applies to situations where an individual having in the first instance mental health challenges, may also have a drug or alcohol addiction, commonly known as Dual Diagnosis.
2. The National Drugs Strategy, *Reducing Harm, Supporting Recovery*, comprehensively addresses the linkages between drug use and the criminal justice system. These include:

* alternatives to coercive sanctions for possession of drugs for personal use, such as the new health diversion programme and the drug treatment courts.
* provision of drug treatment and rehabilitation programmes for prisoners by the Irish Prison Service and other agencies
* access to addiction services in the community for prisoners upon release
* measures to decrease the availability of illicit drugs in prisons.

1. The mid-term review of the actions in the National Drugs Strategy provides an opportunity to review and update actions relating to criminal justice system. This will include consideration of additional measures to address the health and social needs of people who uses drugs in prison and after release, as set out in the new EU drugs strategy 2021-25.

**Other Briefing material:**

* **National Drugs Strategy – review**
* **Review of Prison Healthcare – Health needs assessment**
* **Fairer and Safer Ireland**
* **A Health Led Approach to Drug Use: the Health diversion programme**
* **EU Drugs Strategy (priority 8)**

**National Drugs Strategy**

The national drug strategy, Reducing Harm, Supporting Recovery, sets out government policy on drug and alcohol use for the period 2017 to 2025. The strategy provides an integrated health-led approach to drug and alcohol use, focused on reducing the harms for individuals, families and communities and promoting rehabilitation and recovery.

*Reducing Harm, Supporting Recovery* is a dynamic strategy, and mapped out a series of 50 integrated actions and holistic interventions which are to be delivered over the period 2017-2020.

**Review of Strategy**

The strategy provides the opportunity for the development of further actions from 2021 to 2025 to address needs that may emerge later in the lifetime of the strategy. The Department has commenced a mid-term review of the actions in the strategy, in consultation with stakeholders.  The review provides an opportunity to reflect on progress in implementing the strategy from 2017 to 2020, progress achieved to-date under the action plan, new issues that have arisen since the strategy was launched including the impact of Covid-19 and to consider the development of new actions for the remainder of the strategy to address emerging needs and challenges.

The review will also be informed by a focussed policy assessment of expenditure on drugs and alcohol services being carried out by the Irish Government Economic and Evaluation Service (IGEES), new data on trends and indicators in drug and alcohol for 2019/2020, and the impact of Covid-19 on drug and alcohol services.

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It will also reflect commitments in the Programme for Government for a health-led approach to drug use and misuse and the new EU drugs strategy and action plan 2021-2025

**Strategic action plan 2021-2025**

The development of a new action plan will be informed by a mid-term review of RHSR. It will ensure the continued relevance of the strategy until the end of its term and its implementation will require continued collaborative partnership between all relevant sectors and interests. Actions will SMART (specific, measurable, attainable, results-oriented and time-bound).

The National Oversight Committee, of the strategy, gives leadership and direction to support the strategy. The Committee has broad membership, drawn from statutory, voluntary and community sectors and is chaired by the Minister for State with responsibility for the drugs strategy. The committee has received regular updates on the mid-term review and a draft report will be presented to a special meeting of the committee in May for its consideration.

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The review when finalised will be brought to Government for approval. Publication of the review and supporting documents will follow soon thereafter.

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The Minister is committed to working with all stakeholders to ensure that the national drugs strategy is relevant and appropriate to address the societal challenges arising from the use of drugs, especially for children and young people and for those at greatest risk of harm.

**Review of Prison Healthcare**

The Department of Health participates on an interdepartmental group on the Review of Prison Healthcare, chaired by the Department of Justice.

As a part of the work of this group, a Health Needs Assessment has been commissioned to systematically identify the generic and specialist healthcare needs of the current prisoner population, and to review 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. This work is ongoing.

The 2019 Annual Report of the **Interagency Group for a Fairer, Safer Ireland** has now been published on the Department of Justice website.

<http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review>

**EU Drugs Strategy (priority 8**)

* The European Council approved the EU Drugs Strategy for the period 2021-2015 in December 2020. This strategy sets out the political framework and priorities for the EU's drug policy. The strategy aims to ensure a high level of health promotion, social stability and security and contribute to awareness raising.
* The Strategy includes a new, dedicated chapter on addressing **drug related harm**, which includes measures and policies to prevent or reduce the possible health and social risks and harm for users, for society and in prison settings.
* Strategic priority 8 specifically addresses the health and social needs of people who use drugs in prison settings and after release. Within this priority the Strategy commits to
  + Assure equivalence and continuity of healthcare provision in prison and by probationary services.
  + Implement evidence-based measures in prison settings to prevent and reduce drug use and its health consequences, including measures to address the risk of drug-related deaths and the transmission of blood-borne viruses.
  + Provide overdose prevention and referral services to ensure continuity of care on release.
  + Restrict the availability of drugs in prisons

**A Health Led Approach to Drug Use: the Health diversion programme**

* Following the Government decision to adopt a health-led approach to the possession of drugs for personal use, an interdepartmental group was established to implement the Health Diversion Programme in October 2019. The group is chaired by the Department of Health and membership includes the Department of Justice and Equality, An Garda Síochána (AGS) and the Health Service Executive (HSE). The group is tasked with examining the need for legislative change, the phasing of the implementation, and to look in more detail at the costs involved. The group has met monthly since October 2019.
* The Health Diversion Programme offers compassion, not punishment, to people who use drugs. It will connect participants with health services and will provide a pathway to treatment and recovery where there is problematic drug use. It will also allow participants to avoid a criminal conviction, which can have far-reaching consequences for people, particularly younger people.
* The programme represents a change in the public perception of people who use drugs and will minimise the stigma associated with drug use.
* The Programme for Government commits to review the Health Diversion Programme following the first full year of implementation, to ensure that it is meeting all of its aims and to make any necessary changes.
* There are two stages in the Health Diversion Programme whereby a person in possession of drugs, determined by AGS to be for personal use;

- On the first occasion would be referred by AGS on a mandatory basis to the HSE for a SAOR health screening and brief intervention;

- On a second occasion, AGS would have discretion to issue an adult caution. A referral to the HSE for a further SAOR health screening and brief intervention can also take place.

* On any subsequent arrests for possession of drugs for personal use, a person would not be included in the programme and would be dealt with through the criminal justice system.
* The group is currently finalising proposals to commence implementation of the programme on an administrative basis. Section 3 of the Misuse of Drugs Act 1977/84 will remain in force. Use and possession of illicit drugs will continue to be illegal.
* The expansion of the Adult Caution Scheme to include offences under Section 3 of the Misuse of Drug Act 1977/84 for the possession of cannabis and cannabis resin only was recently announced. It gives AGS the option of diverting appropriate cases away from the criminal justice system.
* It is planned that the Health Diversion Programme will initially commence in five locations in 2021.

**Appendix 1**

**Terms of Reference (TOR)**

**Terms of Reference**

The Task Force is established to make progress towards the Government’s commitment to consider the mental health and addiction challenges of those imprisoned and primary care support on release. The following are the terms of reference of the Group.

1. To assess how best to take forward the recommendations from the first and second reports of the Inter Departmental Group to examine issues relating to people with mental health issues coming into contact with the criminal justice system.
2. To consult with stakeholders and consider relevant reports, proposals, recommendations and strategic actions including, but not limited to, the recommendations of the Council of Europe Commission on the Prevention of Torture reports and the ongoing work of the Steering Group on the Health Needs Assessment underway in the Irish Prison Service, with a view to identifying any additional actions relating to people with mental health challenges or a dual diagnosis of mental health and drug or alcohol addiction challenges who come into contact with the criminal justice system that may be necessary.
3. To prepare a High Level Implementation Plan by end of 2021 outlining lead responsibilities and timelines for any actions identified in (i) and (ii) with operational subgroups being set up as necessary.
4. Report on implementation periodically to relevant Ministers and Ministers of State.

**Interdepartmental Group to examine issues relating to people with mental illness who come in contact with the criminal justice system**

**Summary of Recommendations - First Interim Report**

* The Interdepartmental Group recommends that An Garda Síochána implement a diversion policy as described in this Interim Report for use in suitable cases when they come in contact with adults with mental illness who may have committed a minor offence.
* The Interdepartmental Group recommends that the Department of Health consider whether any amendments to sections 9 and 12 of the Mental Health Act 2001 are required to facilitate the operation of a Garda diversion policy.
* The Interdepartmental Group recommends that the Department of Health consider the implications of any changes to the procedures for involuntary admission to approved centres under the Mental Health Act 2001 for the duration of detention in Garda stations of persons taken into custody under section 12 of the Act.
* The Interdepartmental Group recommends that An Garda Síochána, the Office of the Director of Public Prosecutions and the HSE consider whether it will be necessary to develop protocols and/or guidelines for the operation of a Garda diversion policy.
* The Interdepartmental Group recommends that the HSE and the Irish Prison Service make prison in-reach and court liaison services available to prisoners remanded in custody in Castlerea, Cork and Limerick Prisons.
* The Interdepartmental Group recommends that prison in-reach, court liaison and diversion services should not be put on a formal statutory basis at this time.
* The Interdepartmental Group recommends that the Department of Justice and Equality write to the Working Group on Efficiency Measures in the Criminal Justice System – Circuit and District Courts to bring their attention to the difficulties that the organisation of court sittings outside Dublin can cause for the attendance of medical personnel to give evidence in cases involving persons with mental illness who are charged with criminal offences.
* The Interdepartmental Group recommends that the Department of Justice and Equality bring forward the following amendments to section 4 of the Criminal Law (Insanity) Act 2006: (a) to require medical evidence to be considered by a court before a determination of unfitness to be tried is made; (b) to provide for links between the criminal justice system and non-forensic mental health services so that persons found unfit to be tried by the District Court can be appropriately dealt with; (c) to provide that a trial of the facts under section 4(8) will be mandatory where a court determines that a person is unfit to be tried and wishes to order in-patient care or treatment of the person; (d) to address the issues raised by the judgment in G. v. District Judge Murphy.
* The Interdepartmental Group recommends that the Department of Justice and Equality examine the possibility of: (a) abolishing the option for out-patient examination or treatment under section 4 of the Criminal Law (Insanity) Act 2006, or (b) amending the provisions relating to out-patient examination or treatment to provide for a more effective community order.
* The Interdepartmental Group recommends that the Department of Justice and Equality bring forward a legislative provision: (a) to enable medical staff of the Prison-In Reach and Court Liaison Service to notify the relevant court if they consider that a psychiatric assessment of a person remanded in custody would be appropriate, and (b) to give the courts the power to order such an assessment.
* The Interdepartmental Group recommends that the question of the test to be applied by a court in deciding whether to order the detention of a person found not guilty by reason of insanity should be pursued further by the Department of Justice and Equality in the context of the review of the Criminal Law (Insanity) Act 2006 and any proposals to change the criteria that must be satisfied before a person can be involuntarily admitted to an approved centre under the Mental Health Act 2001.
* The Interdepartmental Group recommends that the Department of Justice and Equality, in consultation with the Department of Health, examine the question of amending section 5 of the Criminal Law (Insanity) Act 2006 to provide for options for courts to deal with persons found not guilty by reason of insanity who require inpatient treatment but do not require treatment under conditions of special security in the Central Mental Hospital.
* The Interdepartmental Group recommends that the Department of Justice and Equality, in consultation with the Department of Health, bring forward legislation to provide for hospital orders for persons with mental disorders convicted of criminal offences.
* The Interdepartmental Group recommends that the implications that ratification of the UN Convention on the Rights of Persons with Disabilities may have for the Criminal Law (Insanity) Act 2006 and the Mental Health Act 2001 be carefully considered by the Department of Justice and Equality and the Department of Health.

**Interdepartmental Group to examine issues relating to people with mental illness who come in contact with the criminal justice system**

**Summary of Recommendations - Second Report**

* The Interdepartmental Group recommends that research be carried out to ascertain the prevalence of mental illness/disorder/disturbance in the Probation client population;
* The Interdepartmental Group recommends that gap analysis regarding relevant services for probationers to be carried out;
* The Interdepartmental Group recommends that the Probation Service assess staff training needs and take appropriate steps accordingly;
* The Interdepartmental Group recommends the establishment of clear protocols with the HSE, on accessing community mental health services and possible hospital admission where the level of clinical need from a mental health perspective warrants such an admission;
* The Interdepartmental Group recommends continued investment of resources into mental health care for prisoners;
* The Interdepartmental Group recommends that in-reach services should be made available in all prisons;
* The Interdepartmental Group recommends that urgent action is taken regarding the delays in admitting prisoners to the Central Mental Hospital;
* The Interdepartmental Group recommends that the full capacity of the CMH be utilised (in particular Unit 5 should be fully opened as a matter of urgency);
* The Interdepartmental Group recommends consideration be given to an arrangement being put in place to ensure that the CMH always has the ability to accept severely ill prisoners without undue delay even if for a limited period. This could consist of some type of roll over facility for short & fixed term admissions from the Prison system to treat acutely unwell prisoners before returning them to an appropriate facility within a prison;
* The Interdepartmental Group recommends that, subject to recommendation 9, preparation on the legislative changes necessary to facilitate arrangements for fixed term admissions to the CMH from prisons are put in place. This will facilitate the CMH in always having the ability to accept severely ill prisoners;
* The Interdepartmental Group recommends that, subject to recommendation 9, the Irish Prison Service, the National Forensic Mental Health Services and the HSE discuss the operational issues regarding the development of an appropriate facility in a prison.
* The Interdepartmental Group recommends that the medical card pilot project application scheme be extended to all prisons for those eligible prisoners;
* The Interdepartmental Group recommends that there is improved support for GP practices;
* The Interdepartmental Group recommends that the extension of the Pre Release Planning Programme (PREP) for mentally ill prisoners to other prisons should be explored.
* The Interdepartmental Group recommends that consideration is given to development of a Housing First approach to residential service for persons with multi-factoral complex needs.

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