**Note for Minister Butler and Minister Feighan**

**- 28 June 2021**

**High Level Taskforce on Mental Health and Addiction Challenges of persons interacting with the Criminal Justice System**

**1. Plenary Group**

**Kathleen Lynch: Chair - former Minister of State for Primary Care, Mental Health and Disability**

Ben Ryan; Assistant Secretary, Dept. of Justice, Head of Criminal Justice Policy

Deborah White; Principal Officer, Dept. of Justice, Penal and Policing Policy

Colm Desmond; Assistant Secretary, Dept. of Health, Corporate Legislation, Mental Health, Drugs Policy and Food Safety Division

Seamus Hempenstall; Principal Officer, Dept. of Health, Mental Health Unit

Michael Murchan; Assistant Principal Officer, Dept. of Health, Mental Health Unit

Prof. Harry Kennedy; Executive Clinical Director, Central Mental Hospital

Dr Eamon Keenan; National Clinical Lead-Addiction Services, HSE

Jim Ryan; Head of Operations for Mental Health Services, HSE

Pat Bergin; Head of Service, Forensic Mental Health Service, HSE

Mark Wilson; Director, Probation Service

Paula Hilman; Assistant Commissioner, an Garda Síochána

John Devlin; Clinical Director, Irish Prison Service

Enda Kelly; Chief Nursing Officer, Irish Prison Service

Graham Hopkins; Dept. of Housing, Homelessness Policy, Funding and Delivery Section

Tony O’Donovan; Principal Officer, DCEDIY., Child Welfare Advisor, Children Detention Unit

Secretariat – John Dunphy & Yvonne Phillips, Dept. of Justice, Penal and Policing Policy

**Plenary Group TOR**

The Task Force was 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 (TOR).

(i) 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.

(ii) 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.

(iii) 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.

(iv) Report on implementation periodically to relevant Ministers and Ministers of State.

**Other background details**

There have been three meetings of the Plenary Group to date, along with the update by K. Lynch to Ministers Butler and Feighan on 22/6/21.

There have been two meetings of Sub-Group 2 and 3, and one of SG 1. In general, meetings of the SGs will occur about every three weeks over the foreseeable future (excluding August).

There is flexibility around bringing other officials as required to attend meetings of the Plenary or Sub-Groups (SG).

There are 29 Recommendations in the two IDG Reports: Recommendations 1 – 14 (IDG Report 2012 \*) Recommendations 15 – 29 (IDG Report 2018\*\*). Sub-Groups have been so far allocated relevant recommendations (indicated below).

**2. Subgroup 1: Diversion**

**Chair – Chief Superintendent Gerard Roche, An Garda Síochána**

Colm Desmond; Assistant Secretary, Dept. of Health, Corporate Legislation, Mental Health, Drugs Policy and Food Safety Division

Michael Murchan, Assistant Principal Officer, Mental Health Unit, Dept. of Health

Dr Conor O’Neill, National Forensic Mental Health Service, HSE

Enda Kelly, National Nurse Manager, Irish Prison Service

Deborah White, Principal Officer, Penal and Policing Policy, Dept. of Justice

Dr Eamon Keenan, National Clinical Lead-Addiction Services, HSE

Eoin Ryan; Regional Manager (acting), Probation Service

Andrew Lacey, AGS

Grace Sheahan, AGS

Brendan Sheehy, Assistant Principal Officer, Community Safety Policy, Dept. of Justice

Tony O’Donovan, Principal Officer, Dept. of Children, Equality, Disability, Integration and Youth

Terms of Reference – to be agreed by 28/6 per any DOH obs due today

This subgroup will:

* Revitalise the IDG recommendation that An Garda Síochána implement a diversion policy for use in suitable cases when members come in contact with adults with mental illness who may have committed a minor offence;
* Examine the IDG recommendation 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;
* Explore synergies between mental health and addiction services so that prevention opportunities are mainstreamed for individuals, including children, coming in contact with the criminal justice system;
* Ensure the structure and framework can be responsive to groups with specific needs, including 18-24 year olds, in line with the Youth Justice Strategy 2021-2027; and
* Consult with relevant stakeholders as deemed necessary.

Recommendations for this group:

1. 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.

2. 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.

3. 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.

4. An Garda Síochána, 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.

6. That prison in-reach, court liaison and diversion services should not be put on a

formal statutory basis at this time.

**3. Subgroup 2: IPS/CMH Capacity**

**Chair - John Devlin, Clinical Director, Irish Prison Service**

Colm Desmond; Assistant Secretary, Dept. of Health, Corporate Legislation, Mental Health, Drugs Policy and Food Safety Division

Michael Murchan; Assistant Principal Officer, Dept. of Health, Mental Health Unit

Prof. Harry Kennedy Executive Clinical Director, Central Mental Hospital

Ben Ryan, Dept. of Justice, Assistant Secretary, Criminal Justice Policy

Deborah White, Dept. of Justice, Principal Officer, Penal and Policing Policy

Patrick Bergin, Head of Service, Forensic Mental Health Service, HSE

Enda Kelly; National Nurse Manager, Irish Prison Service

Terms of Reference: **Approved**

This group could consider the issue of increasing the capacity of forensic mental health services across the prison estate and for those who require admission to the CMH as a priority. This may involve the development of an evidence base for step down care and exploration of all options to open additional forensic beds.

This subgroup will consider the identified recommendations as set out below from the IDG Reports by:

* Reviewing the current capacity and sustainability of the National Forensic Mental Health Service, including the CMH, and future requirements
* Develop a model of clinical care to provide this service in the health and criminal justice systems that is based on international best practice; by
* considering governance, legislative and resource requirements in support of this model of care.
* ensuring the model of clinical care can be responsive to groups with specific needs; and consultation with relevant stakeholders as deemed necessary.

Recommendations for this group:

5. 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.

6. That prison in-reach, court liaison and diversion services should not be put on a formal

statutory basis at this time.

7. 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.

8. The Department of Justice and Equality bring forward the following amendments to

section 4 of the Criminal Law (Insanity) Act 2006:

· to require medical evidence to be considered by a court before a determination of unfitness to be tried is made;

· 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;

· 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;

· to address the issues raised by the judgment in G. v. District Judge Murphy.

9. The Department of Justice and Equality examine the possibility of:

· abolishing the option for out-patient examination or treatment under section 4 of the

Criminal Law (Insanity) Act 2006, or

· amending the provisions relating to out-patient examination or treatment to provide for a

more effective community order.

10. The Department of Justice and Equality bring forward a legislative provision:

· 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 to give the courts the power to order such an

assessment.

11. 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.

12. 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.

13. 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.

14. 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.

15. Research to be carried out to ascertain the prevalence of mental

illness/disorder/disturbance in the Probation client population.

18. 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.

19 Continued investment of resources into mental health care for prisoners.

20. In-reach services should be made available in all prisons.

21. Urgent action is taken regarding the delays in admitting prisoners to the Central Mental

Hospital.

23. 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 rollover 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.

24. Subject to recommendation 23, 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.

25. Subject to recommendation 23, the IPS, the National Forensic Mental Health Services and the HSE discuss the operational issues regarding the development of an appropriate facility in a prison.

**4. Subgroup 3: Community issues including through Care from Detention**

**Chair Mark Wilson; Director, Probation Service**

Colm Desmond; Assistant Secretary, Dept. of Health, Corporate Legislation, Mental Health, Drugs Policy and Food Safety Division

Michael Murchan; Assistant Principal Officer, Dept. of Health, Mental Health Unit

Jim Ryan; Head of Operations for Mental Health Services, HSE

Enda Kelly; National Nurse Manager, Irish Prison Service

Graham Hopkins; Dept. of Housing, Homelessness Policy, Funding and Delivery Section

Tony O’Donovan; Principal Officer, DCEDIY, Child Welfare Advisor, Children Detention Unit

Kim McDonnell, Probation Officer, Probation Service

Deborah White, Principal Officer, Department of Justice

Terms of Reference**: Approved**

This subgroup will consider the identified recommendations as set out below from the IDG Reports by:

* Examining the need for a memorandum of understanding or similar between relevant agencies, including the HSE (Primary Care, Addiction and Mental Health Services), Probation Service, Irish Prison Service and Oberstown Children Detention Campus, in order to set out a structure and framework supporting better outcomes for service users across the continuum of need – inclusive of roles and responsibilities, levels of co-operation, co-ordination and agreed care and case management pathways to services;
* Ensuring the structure and framework can be responsive to groups with specific needs;
* Examining the critical issue of housing, looking to build on the success of recent pilots and matters concerning the particular housing needs of those emerging from the criminal justice system while facing mental health and addiction issues, including sensitivities about post-prison location. The subgroup will also explore how to ensure that housing solutions can be offered on a regional basis, enabling care/support to be delivered at the point of need; and
* Consulting with relevant stakeholders as deemed necessary.

Recommendations for this group:

15. Research to be carried out to ascertain the prevalence of mental

illness/disorder/disturbance in the Probation client population.

16. A gap analysis regarding relevant services for probationers to be carried out.

17. The Probation Service assess staff training needs and take appropriate steps

accordingly.

18. 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.

26. The medical card pilot project application scheme be extended to all prisons for those

eligible prisoners.

27. There should be improved support for GP practices and transparent approach to the use of open prisons prior to release.

28. The extension of the Pre Release Planning Programme (PREP) for mentally ill

prisoners to other prisons should be explored.

29. Consideration should be given to development of a Housing First approach to

residential service for persons with multi-factorial, complex needs.

**5. High level issues to-date**

* Focus on realistic and implementable recommendations in the short-medium term i.e where no resource implications arise but improvement can preferably occur through closer co-operation or changed operational policies in line with current or planned policies and resource frameworks.
* Potential initiatives such as new ICRU/ICRUs, or any similar new residential facilities such As Step-Down and MHID, will obviously take time through Planning/Design/Construction and will have to be prioritised in the HSE Capital Programme, including associated Revenue/Staffing implications.
* A balanced approach needs to be taken on the future capacity of the NFMHS over the next five years or so (and beyond) versus other options around improvement including operational policies and non-NFMHS options.
* There has been positive co-operation and good progress to-date at all levels.
* Focus needs to be kept on Dual Diagnosis, rather than wider Social Inclusion/Addiction services but appropriate attention as required.
* Issues such as Bed Capacity, Homelessness/Accommodation or Access to services wider than mental health such as Primary Care are important. Identifying blockages/gaps etc in services, and measures to address these, is a particular focus at this time.
* The scope of work of each SG has to be refined, including roles and responsibilities of agencies, care pathways, relevant activity or other data, etc. For example, Primary Care Psychology may need greater representation on SG3 or IPS/Probation Service data on identified prisoner needs across all services .
* Some inevitable cross-over will occur between SGs (e.g. Dual Diagnosis)
* Potential legislative changes (to the MHA 2001 or CLIA 2006 or other) will have to be teased out. Some issues likely arising for the Taskforce will be routed via Dept. of Justice obs. overall to the MHA update. Clarifying any legal basis for Diversion and where to divert to, are looming issues, particularly for An Garda Siochana and any changes to the Adult Caution Scheme. DPP advices will be required by the Taskforce, and the DOH has separately written to the Garda Commissioner re. the Health Diversion programme.
* Balancing Freedom/Dignity/Rights against Public Safety and Protection has been highlighted as key.
* Cross – checking with other Justice groups such as Fairer Ireland and the Health Needs Assessment (HNA) Group will continue.
* A very focussed consultation process is intended by the Group/SGs e.g. Irish Prison Reform Trust, Irish Prisoners Rights Committee, Prison Visiting Committees, Mental Health Commission, MHR, Housing/Accommodation, etc. Details remain to be agreed.
* Outside organisations or experts may be asked to present to the Plenary Group at a 1 Day session.
* A high level Interim Report is due in September – around the next Plenary meeting scheduled for 23-24 September with a pre-meeting around 15 September to review progress by SGs.

*O:\MENHLTH\Prison Healthcare Services\Health Taskforce with Justice on Prisons\2021\Note for Min Butler 240621.docx*