**Brief for Ministers Donnelly and Feighan**

**Meeting with Minister McEntee – 22/9/2020**

**Liaison between Health and Justice systems**

**1. Programme for Government *(PfG)***

The current *PfG*, under “Prisons and Penal Reform”, includes:

*It is essential we have a prison service that provides secure custody for those in prison, thereby protecting the public from dangerous criminals, while facilitating the rehabilitation of prisoners to enable their safe return into communities. We will:*

1. *Ratify and implement the Optional Protocol to the Convention against Torture within 18 months of the formation of the Government.*
2. ***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.***
3. *Take a comprehensive approach to the development of the next Irish Prison Service’s Capital Strategy, ensuring the availability of modern detention facilities with adequate capacity.*

**2. Sharing the Vision (STV).**

Chapter 3 of STV relates to Tailored Intervention services such as :

* Forensic Mental Health
* Dual Diagnosis
* Mental Health Services for Homeless People
* Liaison Mental Health Services

STV refers in general terms to the 2015 Irish Prison Service Report *“New Connections – Embedding Psychology Services and Practice in the Irish Prison Service”* . It refers also to Court Diversion, Rebuilding Ireland Housing Strategy (incl. prisoners), complete Mental Health Needs Analysis for prisoners (Recommendation 54), prioritise Intensive Care Rehabilitation Units ( ICRUs - Recommendation 56) following opening in 2021 of the new HSE National Forensic Mental Health Service complex at Portrane.

STV recommends that a **National Implementation and Monitoring Committee (NIMC)** be established to oversee implementation of the policy. This Committee will be mandated to drive reconfiguration, monitor progress against outcomes and deliver on the commitments made in the policy, which will have a 10-year duration.

The Department of Health, in consultation with the HSE, is currently developing the Terms of Reference and membership requirements for this Committee.  The Committee will work with partners to evaluate performance against key performance indicators, and will check overall progress so that the system will be in a position to respond effectively to support population mental health needs.  Furthermore, it is anticipated that Sub-Committees will be established to progress specific actions contained in the policy.  This will include a Sub-Committee that will look at specific recommendations contained within *Sharing the Vision* that are pertinent to Justice such as:

* Examination of requirements for Psychiatric Intensive Care Units (PICUs)
* Ensuring that prisoners have access to comprehensive stepped (or tiered) mental health support that is recovery-oriented.
* Every prisoner will have integrated co-produced recovery care plans that will be supported by advocacy services as required.

One option might be to have Dept of Justice/Irish Prison Serviced representation on a relevant HSE Sub-Committee that could look at improving integrated services, whether in-patient or post-release, for high level forensic patients and to divert low-level repeat prisoners with mental health issues away from the prison system.

The Committee’s proposed membership composition and Terms of Reference, when finalised, will be submitted to the Cabinet. It is anticipated that the main NIMC committee will be established by October 2020.

**3. Justice/Health Inter-Departmental Group to examine issues relating to people with mental illness coming into contact with the criminal justice system**

The Group was established in 2012. The Group was representative of the Justice, Health, IPS, HSE, Probation service, Gardai, etc. A key objective of the Report was to improve Diversion of those with low level mental health issues away from the prison system to appropriate healthcare.

The **First Interim Report** of the Group was concluded in 2016 and concentrated on how Diversion might be improved at all stages of the criminal process.

The Group’s **Second Report** (2018) was received by DOH in December 2019. This included some mental health care recommendations such as patients under the Criminal Law (Insanity) Act 2006 (CLIA), and post-release mental health care for prisoners. Other recommendations relating to Health include:

* Protocols with HSE re. prisoners or ex-prisoners accessing community-based healthcare, including GP and Medical Cards.
* Improved access to CMH, including any legislative changes necessary.
* Extend HSE In-Reach service to all prisons
* Develop a mental health facility in prison(s)
* Pre-Release Planning Programmes

The bulk of recommendations of both Reports relates to the judicial system. A summary of recommendations of both Reports is at **Appendix 1**.

The Inter-Departmental Group, in concluding its Reports, took account of the recommendations of the *Commission of Investigation into the Death of Gary Douche* some years previously. The Commission Report generally covered improvement of liaison between the health and justice systems - including existing forensic mental health services and developing community-based care responses.

A letter of **15 December 2019** from the Minister for Justice to the Minister for Health enclosing the Second Report and proposing that a high-level Taskforce be established (to be led by DOH to progress the recommendations of the Inter-Dept. Group) is attached. The proposed Task Force was not a specific recommendation of the Reports. It appears that the Second Report has yet to be brought to Cabinet and published by the Dept. of Justice.

Following interaction with Dept. of Justice & Equality in early 2020, it was suggested that the issues facing the health and prison services could best be addressed through a high-level operational group, whereby the two Departments could facilitate a practical engagement between the HSE and the Irish Prison Service. The objective was to explore ways to quickly improve access to the CMH for prisoners, prior to opening the new NFMHS facility at Portrane.

As most of the recommendations in the Inter-Dept. Group Reports are the responsibility of the Dept. of Justice & Equality, an initial meeting of relevant officials was considered preferable - to clarify issues and see what practical options might be advanced. A response of **14 February 2020** by Minister Harris is attached.

No meeting subsequently took place, primarily due to re-prioritisation of work in both Departments and the HSE/IPS due to Covid-19.

The DOH and the HSE have taken account and prioritised insofar as possible the Reports of the Inter-Departmental Group in the context of new service developments being progressed under annual HSE Service Plans and new development funding.

**4. Prisoner Health Needs Assessment Steering Group**

The Dept of Justice and the Dept of Health have established a prisoner health needs assessment steering group. The purpose of the group is to oversee a Healthcare Needs Assessment (HNA) of prisoners. The HNA has been commissioned by the Irish Prison Service (IPS)and is being carried out by Crowe, an independent consultancy.

The HNA spans all relevant healthcare needs of prisoners, including Mental Health, with a view to a more holistic approach to in-prison or post-release care involving health, justice or other agencies (e.g. housing, employment opportunities). Crowe is due to present its final report in December 2020. The steering group will then consider the report and make recommendations to Government.

**5. Council of Europe Committee for the Prevention of Torture and Degrading or Inhuman Treatment (CPT) Report 2020.**

Arising from the CPT visit in October 2019, a draft Final Report received some time ago from the CPT via the Dept. of Justice indicated considerable progress overall, since its previous visit in 2014, on mental health care for prisoners. The Committee looked at issues such as Conditions, Staff, Treatment, Restraint, Safeguards and Monitoring, etc. The issue of those with severe mental health illnesses in prison remains a concern for the CPT, as it does for the Irish authorities.

The Final Report, including Ireland’s response to the issues raised in the CPT Report, is expected to be published shortly.

**6. NFMHS Capital Project – Portrane**

Construction completion of the new complex, to replace the Central Mental Hospital (CMH), is scheduled for late October 2020 with opening around February/March 2021 following equipping/commissioning.

The new NFMHS complex has 170 beds to replace the Central Metal Hospital at Dundrum (circa. 105 beds). The new facility comprises a 120-bed replacement hospital – along with a new 30 bed ICRU and a 10-bed forensic CAMHS unit, the first of their kind nationally.

New legislation is required to allow for the CMH to operate from a new location at Portrane and to provide a lawful basis for the transfer of patients detained under the Mental Health Act 2001 and the Criminal Law (Insanity) Act 2006 from Dundrum. Drafting of the Bill is well underway and will be submitted for Government approval to publish once finalised.

**7.** **National drugs strategy action in relation to prisoners**

The national drugs strategy acknowledges that drug use is more prevalent among prisoners. The Irish Prisoner Service provides a range of general and specialist treatment services for prisoners. These services are delivered in partnership with community-based services.

The national drugs strategy has an action to intervene early with at risk groups in criminal justice settings. This action is to be delivered by the Irish Prison Service and the Probation Service by:

* Providing training to enable the delivery of screening, brief intervention and onward referral
* Further developing the range of service specific problem substance use interventions
* Determining the prevalence of new psychoactive substances in prison settings.

**8. Interagency Group on Cooperation for a Fairer and Safer Ireland**

Th Interagency Group on Cooperation for a Fairer and Safer Ireland is convened by the Dept of Justice, under independent chair Ruth Barrington. The Dept of Health and HSE are on the group. The purpose of the Group is to implement two key recommendations of the 2014 Penal Policy Review Group Report which called for greater interagency cooperation in the management and rehabilitation of offenders and crime prevention in general. The group has established a sub-group on pathways for integration and rehabilitation of offenders to explore in detail the issues affecting prisoners on their release from prison, including access to health services. These are set out below.

**General issues for prisoners on release**

Rising prison numbers particularly prisoners on remand is causing issues across the prison system. The Irish Prison Service (IPS) has no control over release dates with regard to prisoners on remand. This problem of remand is being noticed most strongly among female prisoners. Prisoners that have been held on remand that leave straight from court are released at that point but there is no way to know where they are going or if they accommodation. This also prevents IPS from issuing any sort of ‘forewarning’ to DEASP or housing services.

If a prisoner is in for more than 3 months (some remands have been as long as 18 months recently) then IPS will work with them to fill out application forms for housing, to ensure they have access to a medical card and to ensure they can receive social welfare payments upon leaving the prison and at their Intreo office.

It is very difficult to provide hard data in relation to homeless prisoners. Prisoners are committed to custody with the address given on the warrant as confirmed by the Courts Service and the Gardaí. Prisoners are not compelled to reveal their risk of homelessness but a high degree of coaching and encouragement to declare a risk of homelessness occurs while in custody. Improvements are being made to prison systems to capture the data more accurately. It is known that IPS assisted 371 prisoners in 2019 to make application for social housing prior to release. On average over each of the previous 5 years between 400 and 500 prisoners are committed to prison citing No Fixed Abode as their address.

There are major homelessness issues for offenders on release, especially single males on release from prison. Many of the prisoners might have somewhere to go, and might have told the prison they do, but when they get there they aren’t welcome. This also causes difficulty for tracking. IPS considers that of the 3,000 people released in the Dublin area, 80% are homeless

COVID-19 poses a risk. There is a contingency plan but the effects will be very strongly felt if it enters prisons. This will also place pressure on the system and expose gaps and novel issues, most notably around prisoners being released and the services that are supposed to be offered to them (if hospitals take those infected, can a hospital detain a prisoner that has a confirmed diagnosis even after the mandate by which they’re held ends, or will they go back to the community?).

The IPS is progressing a project with the Citizens Information Board to provide a weekly clinic of signposting and advocacy to all prisons. There are three recently established in Castlerea, Midlands and Cloverhill. Cloverhill represents the first service of this kind to remand prisoners. There are Citizens Information in-reach clinics in Loughan House and Cork Prison and plans to extend to further closed prisons as the year progresses.

Data protection regulation remains a barrier to provide ‘fore-warning’ systems to local authorities, DEASP and HSE on a systematic basis. Part 5 of the DP Act allows for information to be shared with criminal justice sector organisations but it does not appear to have the same application for the criminal justice sector organisations to share information with housing, welfare and medical on the basis of mitigating the risk of reoffending but further advice in this context is being sought.

**Access to medical card services**

Many offenders have health problems leaving prison and may qualify for a medical card in income grounds. The IPS has engaged with the HSE to achieve continuity of care for those leaving custody. There was a pilot project in place in Cork prison, which was extended to Arbour Hill in April 2017, whereby offenders who are leaving custody and are eligible for a medical card, are facilitated by resettlement officers in applying for a medical card pre-release. It is noted that the pilot medical card application project in Cork prison had been extended in 2018 to all committal prisons for sentenced prisoners. It is acknowledged that much progress has being made in this area but that no universal solution currently exists that covers all persons leaving prison. There is also concern that cards issued to prisoners are only for 6 months duration. The person to whom the card was issued is reminded after three months of the need to renew the card but given the problems of homelessness and illiteracy among prisoners, these reminders may go unheeded and the card lapses once the six months is up.

Prisoners are encouraged to make contact with the National Medical Card Unit following release and to draw on assistance that is available in the community from their local Citizen’s Information Service. A total of 183 prisoners took it up in 2018, rising to 400 in 2019. Prisoners must re-engage with the national medical card unit in order to keep the medical card beyond 3 months post release. PCRS are collecting the figures of those who re-engage.

**Access to Drug Treatment Services**

There is good communication between the IPS and the HSE Drug Treatment services in the community, such as in the case of Methadone support programmes. Liaison has improved significantly over recent years and no problems were reported to the Group regarding offenders continuing to access methadone treatment on release from custody. The unplanned release of offenders has caused problems in the past. Unplanned releases decreased in recent years with the reduction in overcrowding in prisons. However, as the number of prisoners committed rises and overcrowding increases, the risk associated with unplanned releases returns. There remain issues on the access and overall coverage of data on treatment services made available from the IPS to the Health Research Board.

**Access to Mental Health Services**

There is a high prevalence of mental health problems among prisoners. The services that are provided to prisons include in-reach psychiatric teams in Cloverhill, Dóchas, Cork and Mountjoy prisons. The screening and assessment process has identified that between 3% and 4% of persons committed to prisons have an acute mental illness. There is a deficit in general and forensic mental health services in the community for prisoners and unless addressed, there will continue to be an increase in numbers in prison requiring treatment. Prisoners with mental health problems on release often find it difficult to access appropriate mental health services in the community.

A new secure mental health facility to replace the Central Mental Hospital is planned for Portrane in Dublin-Fingal but the number of places to be provided may not be adequate to meet the longer term needs of prisoners with severe mental health problems. The provision of metal health services to prisoners is an issue requiring much greater interagency cooperation if the problem is to be addressed adequately and progress made.

The Interdepartmental Group to examine issues relating to people with mental illness who come in contact with the criminal justice system is due to produce its second report shortly. This group includes representatives of the Department of Justice and Equality, the Department of Health, the Health Service Executive, the Probation Service and the Irish Prison Service. The Interdepartmental Group’s first interim report was published in September 2016. That report sets out the work of the Interdepartmental Group in relation to how diversion could be facilitated, where appropriate, at all stages of the criminal process up to the conclusion of a criminal trial. The second report of the Interdepartmental Group explores matters relating to mental health services for prisoners, matters relating to patients detained under the Criminal Law (Insanity) Act 2006 and post-release mental health services 20 for former prisoners. There remain major issues with linkages with relevant services for those suffering from mental ill health when released into the community.

**9. Next Steps - Options**

* Agree and follow-up actions arising from meeting between Ministers
* Progress the PFG commitment and STV priorities (including HSE/IPS operational priorities) while avoiding duplication of effort and resources.
* Progress opening of NFMHS, Portrane (and regional ICRU/PICUs over longer term to increase forensic bed capacity nationally).
* Progress Mental Health Act 2001 update, and specific legislation required to open the new NFMHS service at Portrane.
* Progress the recommendations of the Inter-Dept Group First and Second Reports in the context of the existing HNA Group, *Sharing the Vision* National Implementation and Monitoring Committee, future HSE Service Plans etc.

**Mental Health/Social Inclusion Units**

**18 September 2020**