

## STRATEGIC REVIEW OF PENAL POLICY

### List of Recommendations

#### **Chapter 2 – A New Penal Policy (establishing a rationale for the future)**

##### ***Recommendation 1 (p 28)***

The Review Group agrees that the purpose of penal policy and criminal sanctions is to make Ireland a safer and fairer place. With this in mind, the Review Group considers that any punishment within criminal sanctions should as far as reasonably feasible but subject to the principle of proportionality, also assist an offender's rehabilitation and reintegration. The Review Group therefore recommends that all of the key players involved in the administration of criminal justice and penal policy should take into account the aim of rehabilitation and reintegration of the offender when imposing and implementing criminal sanctions.

##### ***Recommendation 2 (p 31)***

The Review Group recommends that our law and practice in the area of penal policy should be just, proportionate, humane and should aim to reduce

- reoffending behaviour, and
- reliance on prison as a sanction.

These principles should inform all aspects of penal policy from diversion through to sentencing, serving of sanction, rehabilitation and exit from sanction.

##### ***Recommendation 3 (p 32)***

The Review Group recommends that there must be greater emphasis, if necessary through legislation, on promoting inter-agency cooperation in the management and rehabilitation of offenders. In addition to the criminal justice agencies, there is a need to recognise that a whole-of Government approach is required in collaboration with relevant agencies and local authorities in addressing offending behaviour and assisting offenders in maintaining crime free lives.

***Recommendation 4 (p 34)***

The Review Group recommends that a programme similar to the Youth Diversion Programme be introduced for young people above the age of 18 with an initial focus on 18-21 year olds. In this respect, the Review Group recommends that the relevant Departments and agencies, including An Garda Síochána should immediately consult in relation to the most appropriate and effective means of targeting this group within the context of current and future resources.

***Recommendation 5 (p 35)***

The Review Group recommends that the relevant agencies review the offences covered by the adult caution scheme with a view to including a wider range of offences.

***Recommendation 6 (p 38)***

The Review Group welcomes and supports proposals to pilot a community court and emphasises the need to ensure that such courts are adequately resourced.

**Chapter 3 - VICTIMS**

***Recommendation 7 (p 42)***

The Review Group recommends that the role of the victim in the criminal justice system be fully acknowledged and looks forward to the full implementation of the EU Directive (2012/29/EU) establishing minimum standards on the rights, supports and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings.

**Chapter 4 – ALTERNATIVES TO CUSTODY**

***Recommendation 8 (p 44)***

The Review Group recommends the adoption of a strategy to reduce prisoner numbers to a safe level subject to the need to ensure proper protection of the public. This requires a focus on alternative approaches to the treatment of offenders. However, to achieve a reduction of prisoners in custody requires a level

of collaboration and cooperation between all relevant Departments and agencies, including the IPS, Probation Service, An Garda Síochána, Irish Youth Justice Service, Department of Health and local authorities.

### ***Recommendation 9 (p 45)***

The Review Group recommends the development and expansion of the use of community sanctions in particular those that address the underlying causes of offending.

### ***Recommendation 10 (p 46)***

The Review Group supports the Fines (Payment and Recovery) Act 2014 and welcomes the potential positive impact that such legislation will have on fine defaulters and prison administration. The Review Group recommends the early and full implementation of this legislation.

### ***Recommendation 11 (p 49)***

The Review Group supports the increased focus on and promotion of community service as an alternative to imprisonment. The Review Group therefore recommends that the Probation Service examine the feasibility of introducing, on a pilot basis, an integrated community service where community service would be imposed with conditions, such as a mandatory restriction on movement order or addiction treatment, where appropriate.

### ***Recommendation 12 (p 49)***

The Review Group recommends the introduction, on a statutory basis, of a provision for community service in lieu of part of a sentence of imprisonment in excess of one year.

### ***Recommendation 13 (p 50)***

The Review Group recommends that the use of open prisons for weekend sentencing be considered.

***Recommendation 14 (p 52)***

Recognising the positive impact which restorative justice can have for appropriate victims and offenders, the Review Group recommends the extension of the restorative justice programmes.

**Chapter 5 – Custodial Accommodation and Regimes**

***Recommendation 15 (p 56)***

The Review Group welcomes the steps taken to improve the standard of accommodation in Mountjoy and Cork prisons and recommends that similar steps need to be taken (as a matter of urgency) in relation to Limerick prison, in particular the female accommodation in that prison, and Portlaoise prison.

***Recommendation 16 (p 58)***

The Review Group recommends that an inter-agency approach is adopted in relation to those offenders who as a result of inter-gang rivalry or other disputes require protection while in prison. Such cooperation must also support the efforts, already underway, to reduce the numbers of prisoners on protection.

***Recommendation 17 (p 58)***

The Review Group recommends that prisoners should only be on restricted regimes for the shortest period consistent with their safety and have access to adequate training, education and recreational facilities.

***Recommendation 18 (p 60)***

The Review Group recommends the increased use of such open prisons. The Review Group is concerned at the lack of an open prison or equivalent for female offenders and recommends that such an appropriate open facility be introduced. Emphasising the need to provide accommodation appropriate to the security requirements of prisoners, the Review Group recommends that, subject to funding, an additional open prison be considered for the Dublin area.

***Recommendation 19 (p 62)***

The Review Group recommends greater involvement of prisoners in the management of their sentences. The Review Group welcomes the joint IPS and Probation Service commitment to enhancing sentence management from pre to post imprisonment. The Review Group recognises that integrated sentence management (ISM) is the appropriate tool for the management of sentences of more than 12 months and should be extended to all eligible prisoners.

***Recommendation 20 (p 63)***

The Review Group is of the view that engagement in education, training and treatment services is crucial to the rehabilitation and reintegration of an offender. In this respect, the Group welcomes the Incentivised Regime Policy (IRP) and its role in encouraging both good behaviour and engagement by offenders. The Group stresses the need for a transparent and open application of the policy which would ensure that all prisoners are kept informed of the various programmes available to them.

**Chapter 6 – Female Offenders**

***Recommendation 21 (p 68)***

To ensure that gender appropriate strategies are adopted to the management of female offending and female offenders, the Review Group recommends that further research into and evaluation of the particular needs and circumstances of female offenders be conducted by the criminal justice agencies. This work should support the processes identified in the Joint IPS/Probation Service Strategy relating to women offenders.

***Recommendation 22 (p 70)***

The Review Group recommends that a review of remand of female offenders be conducted in order to determine the reasons for the high level of female offenders subjected to committal remand.

The Review Group further recommends that research be undertaken into the reasons behind the growth in the use of imprisonment for women and the development of further appropriate non-custodial alternatives to imprisonment.

***Recommendation 23 (p 72)***

The Review Group, noting that, in light of the nature of their offending, female offenders often require less stringent security conditions, recommends a greater focus on step down facilities, supported accommodation, and the use of more community based open conditions for female offenders.

***Recommendation 24 (p 72)***

The Review Group recommends that gender appropriate community sanctions and programmes should continue to be developed.

***Recommendation 25 (p 74)***

The Review Group recommends that all criminal justice agencies work to promote contact between offenders and their children and other family members, where such contact is appropriate. In particular, the Irish Prison Service should work to ensure that conditions for visits, as well as decisions regarding the denial of visits, are sensitive to the needs of children.

**Chapter 7 – Rehabilitation and reintegration**

***Recommendation 26 (p 78)***

The Review Group recommends that all offenders must have the opportunity to avail of any necessary services or programmes to aid their rehabilitation and reintegration. A renewed focus on how best to approach the rehabilitation and reintegration of offenders is required. In particular, the importance of providing appropriate social services such as accommodation, education and training and addiction treatment or counselling must be acknowledged. In this regard, the Review Group recommends an increased focus on the provision of suitable accommodation, including step down facilities to ease the reintegration of offenders.

***Recommendation 27 (p 82)***

The Review Group recommends that there should be a consistent and transparent approach to the use of open prisons prior to release.

***Recommendation 28 (p 84)***

The Review Group overall recommends the greater use of structured temporary release. The Group recommends that there should be a consistent and transparent application of provisions, based on fair procedures, permitting offenders to earn remission of up to one third of the sentence imposed if such discretionary remission is to be retained.

***Recommendation 29 (p 86)***

The Review Group recommends a new focus on the management of temporary release with equity and monitoring of the application of temporary release. In particular, the Review Group recommends that the prohibition on temporary release for those offenders who receive the presumptive mandatory sentence for a drugs or firearms offence should be removed.

***Recommendation 30 (p 87)***

The Review Group recommends the continuation and the expansion of the Community Return Programme and Community Support Scheme.

***Recommendation 31 (p 90)***

The Review Group recommends that a Parole Board should be established on a statutory footing with the power to make decisions.

**Chapter 8 – Sentencing Policy**

***Recommendation 32 (p 91)***

In order to use prisons most justly and effectively, we should break with the idea that prison is the only real form of punishment. The Group recommends that imprisonment be regarded as a sanction of last resort and that this principle be

incorporated in statute. The Group further recommends that non-custodial sanctions should become the default position in dealing with less serious offenders.

***Recommendation 33 (p 94)***

The Review Group recommends that, in all cases where a custodial sentence is imposed by a court, the court should set out its reasons in writing for so doing. The Group further recommends that this requirement be incorporated in statute.

***Recommendation 34 (p 99)***

The Review Group recommends that no further mandatory sentences or presumptive minimum sentences should be introduced. In addition, the continuation of existing presumptive minimum sentences and the threshold for their application in drugs and other offences should be reviewed in the context of the recent judgments of the Court of Criminal Appeal with a view to determining if this type of sentencing satisfies the need for proportionality in sentencing and fulfils the objective of reducing crime. As an initial step to comply with the principle of proportionality, the Review Group recommends an increase in the value of drugs, currently €13,000, possession of which triggers the presumptive minimum sentence of 10 years to a level commensurate with that sentence.

The Review Group further recommends that the prohibition on temporary release for persons sentenced to the presumptive minimum sentence should be repealed.

***Recommendation 35 (p 100)***

The Review Group recommends that when a court imposes a custodial sentence that court should where possible incorporate an incentive towards rehabilitation in the sentence.

***Recommendation 36 (p 102)***

The Review Group is strongly of the view that the availability of information on sentencing and precedents needs to be improved. In this regard the Review Group supports the valuable work commenced by the Judiciary through the Irish Sentencing



Information System (ISIS). The Group also recommends that the Central Statistics Office, in consultation with the Courts Service and the Judiciary, be requested to produce information on sentencing outcomes with a view to providing public information and informing policy development.

### ***Recommendation 37 (p 104)***

The Review Group recommends that a more structured approach be taken to sentencing. The Judiciary should take the lead role in this area. The Group welcomes the recent judgments of the Court of Criminal Appeal which for the first time has given guidance on appropriate sentence ranges. The Group anticipates that this development, combined with the forthcoming introduction of a permanent Court of Appeal, will over time bring about much greater consistency in sentencing.

### ***Recommendation 38 (p 105)***

The Review Group recommends that the main principles and purposes of sentencing as set out in the recommendations above (recommendations 1, 2, 32) be set out in statute. Some members of the Group were of the view that the development of detailed principles and guidelines in the application of these principles was a matter primarily for the judiciary while others favoured more comprehensive and detailed legislation identifying for example relevant aggravating and mitigating factors to be considered in sentencing. The Group recommends that the approach favoured at this time should be reviewed after a period of three years.

## **Chapter 9 – Achieving Change**

### ***Recommendation 39 (p 110)***

The Review Group recommends an increased focus on effective data management. The Department of Justice and the criminal justice agencies should develop a shared agreement outlining how data is to be collected, managed and published by all criminal justice agencies and access to this data should be provided to researchers, within appropriate limits.

***Recommendation 40 (p 110)***

The Review Group strongly recommends that all future policy decisions in the area of criminal justice should be pre-assessed with a view to determining, where possible, impacts on prisoner numbers and numbers to be subject to other forms of sanction.

***Recommendation 41 (p 110)***

The Review Group recognises that crime is a question of social as well as penal policy and recommends that all Government Departments and agencies consider the question of crime prevention when formulating policy. In this regard, the Review Group recommends that the Department of Justice and Equality joins with all Government Departments and agencies to facilitate and support research in order to assist in the formulation of penal policy.

***Recommendation 42 (p 111)***

The Review Group recommends that the Minister for Justice and Equality establish a Consultative Council to advise on issues relating to penal policy. This Committee should consult with relevant partners – at Government, local authority and non-governmental level, as appropriate – on issues as they arise or are referred to them.

***Recommendation 43 (p 113)***

The Review Group recommends the Minister establish a mechanism to ensure the implementation of actions arising from this report which would report to the Minister on a six monthly basis on such implementation. These reports should be published.