

High Level Taskforce on Mental health and Addiction Challenges of Persons interacting with the Criminal Justice System

Subgroup 1: Diversion

Meeting by video conference

Thursday 18th November 2021

10am -11am

Attendees:

- Chair – Chief Superintendent Gerard Roche, An Garda Síochána
- Dr Eamon Keenan, National Clinical Lead-Addiction Services, HSE
- Inspector Andrew Lacey, An Garda Síochána
- Eoin Ryan, Regional Manager with responsibility for prisons regions, Probation Service
- Brendan Sheehy, Assistant Principal Officer, Community Safety Policy, Dept. of Justice
- Michael Murchan, Assistant Principal Officer, Department of Health
- Deirdre O’Flaherty, Administrative Officer, Department of Health
- Chief Superintendent Ann Markey, Crime Policy and Admin, AGS
- Kate Mulkerrins, Executive Director Legal, AGS
- Secretariat – John Dunphy, Oonagh Ffrench and Kerrie Keegan, Dept. of Justice, Penal and Policing Policy

Apologies:

- Tony O’Donovan; Dept. of Children, Equality, Disability, Integration and Youth, Principal Officer, Child Welfare Advisor, Children Detention Unit
- Seamus Hempenstall, Principal Officer, Department of Health
- Enda Kelly, National Nurse Manager, Irish Prison Service

Agenda:

1. Welcome from Chair and approval of minutes of meeting 07/10/21
2. Presentation from Kate Mulkerrins and Chief Supt Markey
3. Diversion Flowchart
4. Roadmap to the final report & list of appropriate services required for final report
5. AOB

1. Welcome from the Chair

- 1.1. The Chair welcomed the Group to the meeting and introduced the two speakers, Ms Kate Mulkerrins and Chief Supt Ann Markey
- 1.2. A request was made for some minor changes to the Minutes of the previous meeting dated 7th October 2021. The amendments will be made and Minutes re-circulated to members in advance of the next meeting.

2. Presentation from Kate Mulkerrins

- 2.1. It is noted that the extension of the Adult Caution Scheme is not a diversion scheme. It also noted that there is no conditionality attached to the caution. The caution is to be used as an alternative to prison. A case must be prosecutable and the individual must accept guilt
- 2.2. The overall goal is that it is a means of keeping people who have life challenges away from the criminal justice system and not to receive a prosecution. The use of the Adult Caution Scheme must also be considered using the public interest test
- 2.3. There is consensus from the DPP that there will be no mainstream changes to the Scheme and there would be considerable change if there was to be an amendment to legislation
- 2.4. There are other instruments available at the Courts disposal such as the Probation Act 1907 where the conviction is struck out. In AGS, it is the delegated authority of the Superintendent / Inspector to prosecute if the public interest will not be served
- 2.5. AGS are main prosecutors, if taken by volume of cases, most of the crimes committed by the target group will be applicable under changes to the current Prosecutor Guidelines
- 2.6. Juvenile diversion is currently operating differently as there is an option to refer to CAMHS. The system of juvenile diversion is a useful tool to further develop the Adult Caution Scheme
- 2.7. It is noted that the objective of the Scheme is to keep people away from the Courts system, there is still a requirement for a formal policy to be put in place. It is important to ensure consistency across the system for victims, offenders and for public safety in general
- 2.8. It was raised that there are potential challenges with regards to the alignment of health diversion. Legislative changes being sought to implement health diversion, including considering in further detail whether this should be done under Health or Justice legislation as appropriate.
- 2.9. It is important that the various diversion schemes are consistent and consider the needs and challenges for the AGS and HSE interaction and information sharing. The systems should be running in parallel to each other. The Group discussed the importance of alignment of legislation between the two Schemes. It is a possibility that the Taskforce could be consider a recommendation to introduce legislative changes to the Adult Caution Scheme
- 2.10. It was raised that the focus needs to be on keeping low level mental health and low level criminal offences diverted away from the Criminal Justice System. There are ongoing discussions regarding the support levels in terms of primary care and access to housing services
- 2.11. There will be access to facilities such as in new facility in Portrane and PICUs and further access to approved centres. However, there is a concern regarding the cohort in between, who have conditions linked to dual diagnosis and addiction issues and how best for this cohort to access services, especially in the community.

3. Diversion Flow Chart

- 3.1. It was agreed by the Group that the flowchart has covered the main points and if there were further changes the chart could be amended. It was suggested consideration might be given that the word Diversion being replaced by an appropriate word.

4. Roadmap to the final report & list of appropriate services required for final report

- 4.1. It was raised that the terminology of the Group must align with the IDG recommendations in order to reflect the status of the D/Health work on the former Vision for Change and the current Sharing the Vision (StV)
- 4.2. The Group discussed whether legislation needs to be included in the final report as a recommendation. A decision on this will be reached in due course with further discussion
- 4.3. The Group are clear that the Adult Caution Scheme is not a diversion scheme. In order for it to become a diversion scheme, there must be a legislative change. There is a need for clarity on the need for legislation which would operate on public interest policy.

5. **AOB**

No matters arose.

Next meeting of SG1 is scheduled on Thursday, 9th December 2021

APPROVED