



An Roinn Dlí agus Cirt
Department of Justice

Criminal Justice Policy

Review of Policy Options for Prison and
Penal Reform 2022-2024



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Executive Summary

1. Introduction

The Programme for Government 2020: Our Shared future contains a broad range of policies and proposals that represent a coherent approach to enhancing and sustaining a more just and safe society.

In September 2020, the Department of Justice established a working group including the Head of Criminal Justice Policy, the Director-General of the Irish Prison Service and the Director of the Probation Service to take forward the Government's commitment to review policy options for prison and penal reform.

The review considered commitments and ongoing developments across the justice sector and beyond, including those outlined in the *Youth Justice Strategy 2021 - 2027*, the *Probation Service Strategy 2021-2024*, the *Irish Prison Service Strategic Plan 2019-2022*, the *Joint Irish Prison Service and Probation Service Strategic Plan 2018-2020*, the *Joint Action Plan on the Management of Offenders 2019-2021* and the *Social Enterprise and Employment Strategy 2021 – 2023*. The on-going work in relation to the *Criminal Justice Sectoral Strategy* and work on developing a Community Safety Policy was also taken into account.

2. Guiding Principles

There are a number of guiding principles underpinning penal policy and practice, and for the working group's purpose, support the identification of priorities going forward:

- There should be a sparing approach to the use of imprisonment. Acknowledging judicial discretion, imprisonment should be used as a sanction of last resort for those who commit the most serious of offences, typically those which justify a sentence of 12 months or longer, or individuals who the Courts determine cannot be managed safely in the community.
- All criminal sanctions should uphold human rights and respect the dignity of those affected – the victim and those affected by harm, offenders and wider society.
- Punishment within criminal sanctions should, as far as reasonably feasible, be subject to the principle of proportionality and assist in the offenders' rehabilitation and reintegration.
- Where possible, potential for the offender to make good and repair the harm caused by offending should be facilitated and realised.
- A range of relevant services must support rehabilitation and reintegration of offenders, as citizens. Collaboration, co-operation and co-ordination across the justice sector as well as the involvement of the non-criminal justice sector in addressing offending and assisting offenders in maintaining crime free lifestyles is key.
- Community sanctions, operating both with and without supervision, provide an effective response to offending and their value, at all stages in the system and should be fully recognised, while also recognising the value of victims in the

Criminal Justice system by increasing supports and services in compliance with the EU Victims' Rights Directive.

- Accountability for decisions at all stages of practice.
- Penal policy and practice that is evidence informed and data driven is necessary for the support and confidence of victims, offenders and the wider community.

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

3. Policy Context

The review took into consideration the development of penal policy and implementation of measures to address key challenges over the last decade. In 2012, the Penal Policy Review Group (PPRG) was established to conduct a wide ranging strategic review of penal policy, taking into account international best practice, work already carried out in this jurisdiction, being cognisant of the rights of those convicted of crimes, the perspective of those who are victims of crime, as well as society in general.

An Implementation Oversight Group (IOG) was established in 2015 to oversee the implementation of the 43 recommendations contained in the 2014 report of the Strategic Review of Penal Policy and accordingly report on progress.

This review takes into account the outstanding priority issues identified by the IOG in their Eighth Progress Report as well as the issues highlighted in the 2018 Joint Oireachtas Report on Sentencing and Penal Reform. At the time of the IOG's Eighth Progress Report in August 2019¹ the IOG proposed a reassessment of the recommendations and prioritisation of what it considered overdue implementation of some recommendations in light of developments over the past six years, in particular, the increasing numbers of people in prison.

Particular recommendations made by the IOG, which have informed the work of the working group, include:

- The development and expansion of the use of community sanctions, in particular, those that address the underlying causes of offending, as a key priority.
- The need for a strategy to reduce prisoner numbers, subject to the need to ensure proper protection of the public. This requires a focus on alternative approaches to the treatment of people who offend, and a level of collaboration and cooperation between all relevant Departments and agencies, including the IPS, Probation Service, An Garda Síochána, the Department of Health and Local Authorities.
- That all persons who offend must have the opportunity to avail of any necessary services or programmes to aid their rehabilitation and reintegration, and a renewed focus on how best to approach the rehabilitation and reintegration of people who offend is required.

¹ To be published in conjunction with this review

- 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.

The report of the 2018 Joint Oireachtas Committee on Penal Reform and Sentencing also informed the review. The report points to the rate of committal to prison being very high and recommended that prisoner numbers should be capped in each prison, which gives rise to issues requiring careful examination. The Committee also recommended that the State should aim for a reduction in the prison population by half.

While attendant to the overarching impetus of this aim, this policy recognises the target as a very ambitious, and acknowledges that the Government has not agreed to this target. As detailed in the Policy Objectives below, Ireland has a relatively low rate of imprisonment by international standards, having the 17th lowest rate of imprisonment within the Council of Europe, and any target to decrease the imprisonment rate must be carefully examined against any potential threat to public safety.

The recommendations of the Committee on the design of any future prisons are well made and will be fully taken into account in future planning having regard for effect on increased capital and staffing costs.

The Committee also identified an increase in the numbers of female prisoners as a particular pressure point. The working group notes this will be tackled in a number of ways including improvements in accommodation for females in prison along with enhancing and developing appropriate pathways for the reintegration of female prisoners with complex needs into our communities. The working group also considers that interventions should be gender and trauma informed.

The working group also had regard to the ongoing work of the Inter-Agency Group for Co-operation for a Fairer and Safer Ireland (IAG), established in 2015 to implement two key recommendations of the 2014 PPRG Report. These recommendations call for much greater interagency cooperation in the management and rehabilitation of offenders and crime prevention in general. The Irish Penal Reform Trust (IPRT) detailed reports on Progress in the Penal System were also given full consideration.

Review of Policy Options for Prison and Penal Reform

1. Policy Objectives

While punishment for those who commit crime is a central element of our justice system, the rehabilitation and reintegration of offenders is at the core of our penal system.

Criminal sanctions represent punishment for crimes committed against individuals and society. All sanctions imposed, whether custodial or community based, represent a visible punishment and interrupt a person's liberty or freedom of movement. However, punishment alone, as experience and research have shown, does not prevent offending or make everyone safer. Interventions and services to promote pro-social behaviour, rehabilitation, and desistance from offending are necessary to drive and sustain real change.

Non-Custodial Sanctions

Non-custodial sanctions, particularly those that are supervised in the community, play a significant and vital role in addressing criminality, reducing reoffending, and providing protection to the public.

Community sanctions and measures are defined in the European Rules on Community Sanctions as 'sanctions and measures, which maintain suspects or offenders in the community and involve some restrictions on their liberty through the imposition of conditions and/ or obligations'.

Community sanctions not only hold an individual accountable for their behaviour but also offer them a path back to social inclusion and a pro-social lifestyle. This can serve to reduce the damage on their families. Community sanctions also assist in keeping victim issues to the fore of the individual's mind as well as allowing for some restorative justice interventions with the victim's participation when they wish to do so.

The 2021 CSO stats on recidivism in Ireland found that 44.6% of those sentenced to a period in custody re-offended within a one-year period, compared to 29% for those sentenced to sanctions in the community.²

In her 2014-15 research, examining the comparative use, experience and outcomes of Community Service Orders as alternatives to short prison sentences in Ireland, Dr Kate O'Hara found that the low use of Community Service Orders when compared to short-

² These statistics are published by the CSO under reservation.

term imprisonment appears to reflect a primacy in practice of the use of imprisonment as sanction rather than a community measure.³

For over 40 years, reform policies in Europe and across the world have been premised on the belief that if only community-based penalties would come to be seen as ‘robust’ and ‘credible’, they would more or less directly replace imprisonment in relatively less serious cases. That hope has failed to materialise and the use of imprisonment, particularly short sentences, has remained stubbornly high.

Probation Supervision in 2020 is estimated to cost approximately €5,712 per year.⁴ There are evident economic savings in using community sanctions compared to the cost of incarceration in this country. We should therefore be slow to spend more on incarceration when investment of resources elsewhere provides greater outcomes.

Prison as a Sanction

A custodial sanction has a dual role of removing from society those who cannot be managed safely in the community while also offering rehabilitative interventions that provide an opportunity for the individual to engage in a pro-social lifestyle on release.

However, in his 2020 report on recidivism, “An Evidence Review of Recidivism and Policy Responses”, Professor Ian O’Donnell points to evidence that prison is criminogenic and contributes to reoffending. He suggests that the arguments against using it are persuasive. While necessary as a sanction of last resort, the desirability of an approach that is less willing to spend money on keeping people in prison is indicated.

The **average annual cost of an available, staffed prison space** during the calendar year 2020 was **€80,445**, a 6.7% increase on the 2019 cost of €75,349. The increase on the 2019 figures is due to a number of extraordinary, once off factors leading to additional significant costs during 2020. These costs, totalling €16.7M, have had a once off impact on the above calculations, and were in respect of an additional pay period for prison officers due to the timing of payroll payment runs, COVID-19 pandemic related costs and once off approved stimulus costs. If these extraordinary, once off expenditure items were to be removed from the calculations above, the cost per available, staffed prison space for 2020 would reduce from €80,445, as above, to €76,632, an increase of €1,283 on the 2019 figure.

In terms of the economic implications of an increase in the prison population, the Finance Directorate of the IPS previously undertook analysis indicating that an increase in prisoners leads to an increase in variable costs to the extent of approximately **€1million per 100 prisoners**. Based on 2018 figures, an increase of a hundred prisoners will likely

³ O’Hara, K. (2016) Examining the comparative use, experience, and outcomes of community service orders as alternatives to short prison sentences in Ireland.

<<https://arrow.tudublin.ie/cgi/viewcontent.cgi?article=1067&context=appadoc>>

⁴ The Probation Service has commenced an updating of cost data which estimated the cost of Probation Supervision in 2013 at €5,100 per year.

lead to a direct increase in annual operational costs of between €800K and €1.1M depending on the level of maintenance costs incurred for those 100 prisoners. In addition, there will also likely be an increase in support costs such as staffing, escorting, administration and capital costs, depending on how long the increase in the number of prisoners lasts, the profile and demographic of the extra prisoners and whether and when the initial 100 prisoners will further increase to two hundred and so on. If the increase in numbers continues, the first 100 prisoners could possibly cost €1M with the second additional 100 prisoners costing €1.5M, with exponential increases occurring if increased numbers are to be a continuing phenomenon.

There is also a limit to what the current prison estate can accommodate and so at some stage as numbers increase, further large capital investment would be required for the building of a new prison. Such a development would have an even bigger and much more dramatic impact on annual operational costs, in addition to the large-scale capital investment that might be required.

In relation to future trends and associated economic aspects, the IPS has contributed to a broader piece of work on scenario modelling in terms of addressing the courts backlog. However, these are not projections, so have not been included in this review. These were based on hypothetical scenarios modelled by the Courts Service, as opposed to any proposed action on addressing the courts backlog. However, any action taken to increase the Courts Service Clearance rate will have downstream impacts on the IPS in terms of increasing the daily average number of people in custody, the number of people held on remand and prison escorts.

Rate of Imprisonment

Ireland has a relatively low rate of imprisonment by international standards. According to the most recent published statistics, Ireland's imprisonment rate is 74.4 per 100,000 of population⁵. This compares favourably to similar sized countries within the Council of Europe and, out of 47 countries surveyed, only 16 countries have lower imprisonment rates than Ireland. That being said, Ireland has significantly more capacity to hold people to account within their communities and the aim of our penal policy over the next 3 to 5 years is to reduce the imprisonment rate further in appropriate cases/categories.

This is not to be misunderstood as not holding people to account for the harm they have done to individuals and communities. In this regard, it is important to ensure the judiciary retain the discretion to hand down proportionate sentences in cases of serious crimes, and to recognise that prisons remain an appropriate sanction in such instances.

While the 2014 Strategic Review of Penal Policy was a response to increasing prisoner numbers and prison overcrowding, it highlighted that future development of penal policy must be coordinated and coherent. It should have the joint aim of reducing crime and facilitating rehabilitation. The goal is to achieve the best outcomes for society.

⁵ Council of Europe Annual Penal Statistics Survey 2021, (SPACE I Prison Populations)

Short Prison Sentences

Consistent with the 2014 findings, addressing the overall upward trend in prison numbers in recent years, including sentences of less than 12 months and the risk of overcrowding, is at the core of this current review. While the daily average in custody decreased by 4% in 2020, it is recognised that the post-Covid resumption of court activity is presenting challenges that need to be met recognising future population trends and changes in crime activity.

For very short sentences, less than three months, the key factors in the argument against their use is not the impact on prison numbers, but the impact on the lives of the individuals, the administrative overhead for IPS, and the impact on the orderly management of prison services to have a constant movement of short stay residents.

For all offence sentence levels, property crime is the key offence group and the consistent use of non-custodial sentences for these offences would have a significant impact on prison numbers. For very short sentences (under 3 months), the key offences are public order and related offences. In the middling bracket of 3-6 months, the most significant area is road traffic offences, and a move away from custodial approaches for cases in which there has been no injury would significantly reduce the rate of committal for road traffic offences.⁶

The arguments for moving away from these sentences include wider policy and rehabilitation concerns, and not just the potential to reduce crowding in prisons. Very short sentences are of particular concern. The very fact of committal is disruptive to the life of the individual, removes them from family support and can close off access to work and accommodation – all key factors in reducing the risk of recidivism. Admission of an person to prison is resource intensive, as is release, and frequent changes to cell and landing population disrupt the structure and order of the of those on longer sentences, including access to rehabilitative interventions.

In 2019, the Scottish Government, in the Presumption against Short Periods of Imprisonment (Scotland) Order 2019, extended the existing presumption from 3 to 12 months provided for in the *Criminal Justice and Licensing (Scotland) Act 2010*. The Order requires that a court must not pass a sentence of imprisonment of less than 12 months unless it considers that no other sentence is appropriate. The court must record the reasons for its sentencing decision. The proportion of all disposals accounted for by custodial sentences of 12 months or less fell from 12.8% in April 2019 to 9.5% in November 2019⁷.

⁶ Department of Justice Study of Short Sentences September 2021

⁷ Based on statistics compiled by Scotland's Chief Statistician <<https://www.gov.scot/news/data-on-effects-of-presumption-against-short-sentences/>>

The figures for 2020 show that the proportion of all disposals accounted for by custodial sentences of 12 months or less in Scotland was 9.9% in January 2020 and 12% in December 2020. The impact of Covid-19, the associated suspension of court cases in Scotland and the resulting backlog in court cases waiting to progress however complicates the interpretation of recent patterns in custodial sentence lengths, making it difficult to separate the effects of the pandemic from the effects of the extended presumption against short custodial sentences (PASS). Numbers of custodial sentences of less than or equal to 12 months, and the proportion of all disposals that these made up, were reducing in the period between the implementation of the extended presumption (PASS) and the announcement of lockdown in late March (9.9% in January and 9.3% in February 2020⁸).

In Ireland, the implementation of the Community Service (Amendment) Act 2011 had an immediate impact on custodial sentences of twelve months or less, with an average year-on-year decrease of short sentences (excluding sentences imposed for non-payment of fines) between 2011 and 2016 (see tables below from IPS). Notwithstanding the impact of Covid-19 in 2020, and the emergency temporary release measures that needed to be undertaken within the prison estate, the impact of this legislation has been gradually reducing since 2016, with pre-Covid 2019 close to reaching the high of 2011.

Committals Under sentence 2011 - 2021 (Ex-fines)				
	<3 Mths	3 to <6 Mths	6 to <12 Mths	Total
Year 2021	580	1,119	707	2,406
Year 2020	511	1,023	778	2,312
Year 2019	693	1,607	1,153	3,453
Year 2018	618	1,491	995	3,104
Year 2017	460	1,295	884	2,639
Year 2016	468	1,050	1,039	2,557
Year 2015	484	1,138	1,026	2,648
Year 2014	540	1,091	986	2,617
Year 2013	723	1,241	1,097	3,061
Year 2012	780	1,487	1,273	3,540
Year 2011	846	1,496	1,358	3,700

Finding alternatives to short prison sentences, particularly those of less than three months, may be an effective pathway to explore; it offers the greatest reduction of disruption for individuals and for the prison service. It can also be said with some confidence that such short sentences are given for the least serious offences, and so there is less risk to community safety in replacing them with a community sanction. Professor O'Donnell's research also noted that short-term imprisonment was not effective.

⁸ Second edition of information to monitor the extension of the presumption against short sentences to 12 months or less published by the Government of Scotland
<https://www.gov.scot/publications/extended-presumption-against-short-sentences-monitoring-information-january-december-2020/pages/6/>

Core to the review is therefore an approach that seeks to reduce the number of short-term prison sentences and provide the Courts with effective and sustainable alternatives.

Alternative Sanctions and Measures

In recent years there has been a growing understanding of how social, educational, health and other policies can contribute to the prevention of crime and reoffending. The diversion of people at the earliest possible stage has immense value in supporting a pro-social lifestyle. Pre-sanction reports prepared by the Probation Service for the courts are the next building block in providing effective community-based sanctions in individual cases. Prison is the sanction reserved for those who cannot be managed safely in the community and who have committed the most serious crimes.

The Central Statistics Office (CSO), on the recommendation of the Department of Justice, undertook an analysis that matched offenders who were in prison on April 2016 (Census night) with other social and economic administrative data.⁹ The majority of those in prison on Census night were most likely to report that they were neither in employment nor in education subsequently. The most recent activity in May 2019 for one-in-ten (11.7%) offenders was substantial employment while for just over two-in-ten (22.7%) it was education & training. One-fifth of offenders (22.7%) were last identified in education & training up to April 2016. The highest level of education for more than half (57.0%) of offenders up to May 2019 was the Junior Certificate or less. More than half (59.7%) of offenders were not in education or employment up to May 2019, but were in other administrative sources such as records from the Department of Employment Affairs and Social Protection.

Furthermore, in two separate reviews of offenders being managed by the Probation Service, Power (2020)¹⁰ highlighted a significant proportion of those managed by the Service with mental health issues and similarly Rooney (2021) highlighted the same finding regarding alcohol and drug misuse. This issue also affects those in prison along with addiction challenges and homelessness.

Professor Ian O'Donnell's research on developing an understanding of reoffending and the effectiveness of interventions highlighted a distinction between static risk factors and dynamic risk factors. Static factors refer to those that are not open to change such as age. Dynamic risk factors such as employment status and substance misuse are amenable to interventions. The report noted that short-term imprisonment was not effective and considerations should be given to planned and structured early release. It also recommended that consideration be given to training along with monitoring and evaluation of interventions.

⁹ CSO, Offenders 2016: Employment, Education and other Outcomes, 2016 - 2019

¹⁰ C. Power (2020) Moving Forward Together: Mental Health Among Persons Supervised by the Probation Service

In concentrating on reducing offending behaviour and promoting desistance from crime, our penal policy seeks to increase community safety, thereby reducing the number of people who find themselves a victim of a crime and experience the harm that it brings. That said, it cannot be eliminated and despite successful prosecutions resulting in conviction and punishment (including imprisonment), many victims find this process alone cannot undo the harm they have experienced. Restorative justice is a criminal justice process, which has been shown to help victims recover from crime, reduce reoffending and save public resources.¹¹

It is now widely accepted that restorative justice is compatible with the traditional criminal justice systems of both common law and civil law jurisdictions.

The Future

The Programme for Government includes a commitment to work with all criminal justice agencies to build capacity to deliver restorative justice safely and effectively. Therefore, the review highlights that an appropriate service delivery model is required to promote, support and oversee high quality restorative justice practice at all stages of the criminal justice process, including prevention and diversion.

In line with **the European Rules on Community Sanctions and Measures**, the following are the key aspects for Ireland to consider in effective community sanctions and measures:

- Community sanctions should be regulated in such a way to promote social inclusion and not only punishment and deterrence;
- Legislation should include provision for a wide range of community based sanctions and measures, pre-trial and post-custody;
- Community sanctions and measures should accord with the principle of proportionality and dispensed in accordance to the seriousness of the offence as well as regard to the circumstances of the offender and with observance to the penal objectives of retribution, deterrence and rehabilitation; and
- Community sanctions and measures should be available to all offenders without direct or indirect discrimination, thereby respecting diversity in all its forms.

¹¹ See, for example, Shapland, J., Robinson, G. & Sorsby, A. (2011). *Restorative Justice in Practice: Evaluating What Works for Victims and Offenders*. Oxford: Routledge; Strang, H. et al. (2013). *Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review*, Oslo: The Campbell Collaboration; Sherman, L. et al. (2015). Twelve experiments in restorative justice: The Jerry Lee program of randomized trials of restorative justice conferences. *Journal of Experimental Criminology*, 11(4), pp. 501-540; [European Forum for Restorative Justice Research Summary \(2018\)](#). *Effectiveness of restorative justice practices. An overview of empirical research on restorative justice practices in Europe*.

The **European Prison Rules** contain recommendations for fundamental standards that provide for a humane prison system. These Rules inform policy developments in the Irish Prison Service. Our Prison Service is committed to the provision of safe, secure and humane custody for people who are sent to prison in this State by the Courts. The Irish Prison Service deals with men and women who are 18 years of age or over. Their mission is to provide safe and secure custody, dignity of care and rehabilitation to prisoners for safer communities. The IPS tries to ensure that any person committed to custody is provided with a permanent bed in a prison cell. To achieve this, and to ensure the effective management of the increasing prisoner population, the IPS has developed a Prison Population Management Plan in 2019 aimed at maximising capacity within the estate and increasing the use of open centres and the use of back door strategies, including structured temporary release.

Essentially this review identifies measures to:

- Expand community based sanctions that reflect the needs of Ireland's diverse society;
- Drive rehabilitative interventions that sustain desistance from offending, reduce the reliance on prison as a sanction and mitigate overcrowding in prisons.
- Embed collaborative, innovative approaches to the complex causes of offending at all stages of the criminal justice system and
- Drive greater availability and use of research, evaluation and data.

2. How this will be delivered

Meeting the challenges is not mainly a question of the allocation of resources within the criminal justice sector. Central to the overall approach is the establishment of appropriate mechanisms for raising awareness and understanding of the complex social context of offending behaviour.

In order to support and drive the safe reintegration of offenders into our communities, the Department of Justice will continue to work across government, relevant agencies and with stakeholders. This review provides a policy framework to co-design and implement effective, evidence-based responses such as education and training, health services to address mental health and addiction issues and the provision of accommodation including the use of step down facilities to support and drive the safe reintegration of offenders into communities.

This reviews sets out an action plan for prison and penal reform for the period 2022 – 2024 including timeframes and responsibility for delivery.

3. Priority Policy Interventions

Six priority policy interventions have been identified to reduce reoffending, support desistance from offending, avoid overcrowding in prisons, and reduce reliance on custodial sentences as the primary criminal sanction, except where determined necessary and proportionate to the suffering of the victim, particularly in relation to serious crimes which may result in life sentences. These form the substance of the review and are set out in the accompanying Priority Action Plan for 2022 – 2024.

Many other complementary policy approaches are contained in other related strategies and action plans but are of direct relevance to the process of penal reform and are therefore referenced. These are set out in a separate Action Plan for 2022-2024. Actions 7-11 focus on collaborative interagency working, reviews of current legislation and also the Programme for Government commitment in relation to restorative justice approaches. Actions 12 – 17 are focused on meeting international obligations and improving standards in our penal system. Actions 18 – 21 are focused on improving outcomes for young people who offend.

There are mechanisms and structures in place in the Criminal Justice Policy function of the Department to ensure that all related actions across the various strategies are being viewed holistically and that there is no duplication of oversight.

It is proposed that a Penal Policy Priority Action Plan 2022-2024 be incorporated into relevant Justice Plans in that period and into the Implementation Oversight Group's regular reporting on progress to the Minister for Justice.

4. Priority Penal Policy Action Plan 2022-2024

1. To consider the incorporation of the principle of prison as a sanction of last resort in statute, in relation to people who do not pose a risk of serious harm, to reduce reoffending and overcrowding in prisons	Timeframe (commence)	Lead
<p>1.1 Publish a policy review of the Criminal Justice (Community Sanctions) Bill 2014 in consultation with the Probation Service.</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • Agree a validated and revised General Scheme of the Bill • Publish the Bill 	<p>Q3 2022</p> <p>Q3 2022</p> <p>Q4 2022</p>	<p>Criminal Policy/ Probation Service</p>
<p>1.2 Develop a coordinated, effective effort to reduce the number of persons who do not pose a serious risk of harm to others being committed to prison for sentences under 12 months</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • Commission a review of the operation of the Community Service Amendment Act 2011 • Complete an updated study on the Number, Profile and Progression Routes of Homeless Persons before the Court and in Custody (Seymour and Costello 2005) as part of accommodation and support planning and identify current issues, challenges and opportunities. • Review and enhance the operation of Community Service model by the Probation Service • Examine the potential of weekend non-custodial sentences 	<p>Q3 2022</p> <p>Q3 2022</p>	<p>Criminal Policy/ Probation Service</p> <p>Criminal Policy/ Probation Service/ Research & Analytics</p>

<p>1.3 Respond to increasing rates of detention on remand through ensuring viable alternatives are available to the Court</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • Commission research on the use of remand detention for people before the District Court • Develop responses to the IPS review of women detained on remand in prison • Scope the development of a Women’s Supported Bail Service and launch a pilot scheme 	Q1 2023	Criminal Policy/ Probation Service/ IPS
<p>2. To develop and expand the range of community based sanctions including alternatives to imprisonment, to reduce re-offending and overcrowding in prisons</p>	<p>Timeframe (commence)</p>	<p>Lead</p>
<p>2.1 Build on the joint IPS/Probation Service strategy “An effective Response to Women Who Offend” and incorporate the Probation Service 2021 “Best Practice Approach” to work with women who offend.</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • Support the phased implementation of ‘Towards a Best Practice approach to working with Women who Offend’ • In association with the above, examine the “One Stop Shop” Scottish model • Scope the development of a Women’s Supported Bail Service and launch a pilot (see 1.3 above) • Explore the feasibility of providing an intensive community-based supervision and support programme for women who offend • Implement agreed actions in the new Joint Management of Offenders Action Plan specifically aimed at women who offend. 	<p>Q3 2022</p> <p>Q3 2022</p> <p>Q1 2023</p> <p>Q4 2022</p> <p>Q2 2023</p>	Criminal Policy/ Probation Service/ IPS

<p>2.2 Complete the Rapid Evidence Review <i>Understanding Reoffending: Push Factors and Preventative Responses.</i></p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • <i>Present at Interagency Group for a Fairer Safer Ireland for consideration by research subgroup</i> • <i>Examine scope for further research in this area</i> 	<p>Q3 2022</p> <p>Q4 2022</p>	<p>Criminal Policy/ IAG / Research & Data Analytics</p> <p>Criminal Policy/ IAG/ Research & Data Analytics</p>
<p>2.3 Develop diversity sensitive policy approaches in relation to marginalised populations who are disproportionately represented among those who offend or may be at risk, including the Traveller community, people with disabilities, and other diverse cohorts.</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • <i>Maintain and strengthen effective practice in responding to marginalised groups.</i> • <i>Commission research on the prevalence of disability (intellectual, physical, sensory, psychosocial) in the Irish prison population and among people engaged with the Probation Service, and develop discrete policies in response to research findings.</i> • <i>Develop data capacity to identify and develop responsive policies to marginalised populations and groups at risk of discrimination.</i> 	<p><i>ongoing</i></p> <p>Q3 2023</p>	<p>Probation Service/ IPS/ Criminal Policy</p>
<p>2.4 Promote awareness and knowledge of the mutual recognition and possibility of transfer of community sanctions and measures between jurisdictions in the European Union as provided in the Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2019</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • <i>Information disseminated to and use promoted among the Judiciary, Legal Representatives and Court Services staff.</i> • <i>Standardised operating procedures for the management of applications under EFD 947/2008 agreed and established</i> • <i>Webinars hosted to disseminate the SOPs and share learnings from test cases</i> 	<p>Q4 2023</p>	<p>Probation Service/ Service Delivery/ Transparency</p>

<p>2.5 The Irish Prison Service and Probation Service will work with the Department of Justice, other Government Department and community interests to identify innovative, effective interventions and new supervision modalities to maximise early release from custody to improve rehabilitation, resettlement and rehabilitation outcomes for people leaving custody.</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • <i>Review the Community Support Scheme and the Community Return programme, in context of best international practice on the use of early release to support reintegration.</i> • <i>Examine how we inform and engage with European best practice and critical partners, including Europris and CEP, to ensure evidence-led responses in this area.</i> 	<p>Q4 2022</p> <p>Q3 2023</p> <p>ongoing</p>	<p>Probation Service/ Irish Prison Service/ Criminal Policy</p>
<p>3. Implementation of recommendations from the High Level Task Force to consider the mental health and addiction challenges of those imprisoned and primary care support on release</p>	<p>Timeframe (commence)</p>	<p>Lead</p>
<p>3.1 Commence the implementation process for the recommendations coming from the High Level Task Force on Mental Health and Addiction Challenges.</p>	<p>Q3 2022</p>	<p>Criminal Policy, criminal justice agencies, Health sector, Dept. Housing</p>
<p>4. To ensure that all criminal justice policy decisions are pre-assessed to determine, as far as possible, their impact across the criminal justice sector</p>	<p>Timeframe (commence)</p>	<p>Lead</p>
<p>4.1 Under Pillar 1 of the CJ Sectoral Strategy (1.1.1), develop and agree protocols to ensure all future policy initiatives and decisions in the area of criminal justice are pre-assessed to determine impacts on case load and capacity at each stage of the system, where practicable.</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • <i>Ongoing capture and analysis of sentencing data and sentencing patterns to ensure appropriate capacity levels and responses</i> 	<p>Q1 2023</p>	<p>Criminal Policy/ Criminal Justice Sectoral Strategy Implementation Subgroup 1</p>

5. To establish a Penal Policy Consultative Council	Timeframe (commence)	Lead
<p>5.1 Establish a Penal Policy Consultative Council</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • <i>Develop draft Terms of Reference</i> • <i>Appoint Chair and Members, with approval by Minister</i> • <i>ToR agreed by Chair and Members, with approval by Minister</i> • <i>Work Programme agreed, and brought to Government for noting</i> 	Q3 2022	Criminal Policy
6. To introduce judicial discretion to set minimum tariffs for life sentences and examine the effectiveness of use of mandatory minimum sentences for certain crimes	Timeframe (commence)	Lead
<p>6.1 Complete a review of enactments providing for the imposition of mandatory minimum sentences in accordance with Section 29 of the Judicial Council Act, 2019.</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • <i>Commence review in line with statutory requirements, having regard to the views of the Law Reform Commission, Government policy in previous reports and constitutional issues with mandatory sentences.</i> • <i>Report made to the Oireachtas within 12 months of commencing the review</i> 	<p>Q4 2022</p> <p>Q4 2021</p> <p>Q4 2022</p>	Criminal Policy
<p>6.2 Conduct a review of all matters relating to length of imprisonment in cases of life sentences.</p> <p><i>Associated Actions:</i></p> <ul style="list-style-type: none"> • <i>Complete a review of Whole Life Order sentences for murder.</i> • <i>Conduct a review on sentence tariffs for minimum periods of imprisonment, and current access to parole.</i> • <i>In line with Action 36 of Justice Plan 2022, bring forward proposals to make changes to the law in relation to life sentences</i> 	<p>completed</p> <p>ongoing</p> <p>Q1 2023</p>	Criminal Policy

5. Complementary Penal Policy Action Plan 2022-2024

7. To Review the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 to broaden the range of convictions that are considered spent	Timeframe (commence)	Lead
7.1 Develop policy proposals	Q3 2021 <i>(complete)</i>	Criminal Policy
7.2 Provide amendments to PMB on foot of policy proposals developed	Q2/Q3 2022	Criminal Legislation
8. Work with all criminal justice agencies to build capacity to deliver restorative justice, safely and effectively	Timeframe (commence)	Lead
8.1 Publish policy proposals in relation to an appropriate mechanism and process to create awareness and availability of restorative justice at all stages of the criminal justice system with consistency of service ensuring quality in training and practice	Q3 2023	Criminal Policy
8.2 Agree an implementation plan to establish the appropriate mechanism	Q3 2023	Service Delivery / Criminal Policy
9. To review remission and structured temporary release to enhance the rehabilitation and reintegration of offenders	Timeframe (commence)	Lead
9.1 Commence Policy Review of Remission, taking account of structured temporary release, including eligibility for the Community Return Programme, and the interaction between the incentivised regime, P19 disciplinary actions, and the appeals body against the removal of remission.	Q3 2022	Criminal Policy/ Probation Service/ IPS
10. To review the impact of the Fines (Payment and Recovery) Act 2014 in particular with regard to the imposition of short custodial sentences	Timeframe (commence)	Lead
10.1 Conclude review of High Level Departmental Group	Q4 2022	Criminal Policy

10.2 Development of Implementation Plan	Q1 2023	Criminal Policy
11. To improve inter-agency working through the development and implementation of a Criminal Justice Sectoral Strategy and Community Safety Policy	Timeframe (commence)	Lead
11.1 Publish a Criminal Justice Sectoral Strategy	Q1 2022	Criminal Policy
11.2 Implement the objectives of the CJ Sectoral Strategy	Q4 2024	Criminal Justice Strategic Committee
11.3 Implement Community Safety Pilots	Q2 2021	Criminal Policy
11.4 Implement Community Safety Policy through Policing and Community Safety Bill	2021-2023	Criminal Policy/ Probation Service/ IPS
11.5 Complete the implementation of the Working to Change – Social Enterprise and Employment Strategy 2021 – 2023.	<i>ongoing</i>	Criminal Policy
11.6 Examine development of a follow on to the Working to Change Strategy	Q1 2023	Criminal Policy/ Probation Service/ IPS
11.7 Complete the implementation of the Prison Education Strategy 2019-2022	Q2 2022	IPS
11.8 Prepare a follow up Prison Education Strategy	Q3 2022	IPS
11.9 Inter-Agency Group to facilitate knowledge-sharing across key stakeholders to promoting co-operation in supporting the ongoing rehabilitation and reintegration of offenders	Q3 2022	Inter-Agency Group

11.10 Initiate a revised structure to build on the duty to co-operate provisions of the Policing, Security and Community Safety Bill to ensure appropriate interventions for those whose health, addiction, and social circumstances compound the risk of re-offending	Q1 2023	Criminal Policy
11.11 Work with Department of Housing and HSE to consider joint commissioning of services, such as Housing First, for persons with complex needs.	<i>ongoing</i>	Probation/IPS/Criminal Policy/Governance
11.12 Promote alternatives to coercive sanctions for drug-possession related offences, in line with the national drugs strategy, the European drugs strategy and action plan, and the implementation of the health diversion programme.	<i>ongoing</i>	Department of Health / Criminal Policy
12 To take a comprehensive approach to the development of the next Irish Prison Service Capital Strategy, ensuring the availability of modern detention facilities with adequate capacity.	Timeframe (commence)	Lead
12.1 Analysis of prosecution data for 2020 to establish the scale of cases that ordinarily would have been dealt with by the Courts and assessment of projected impact on prison numbers.	Q3 2022	Research & Data Analytics
12.2 Analysis of projected population trends and demographics should be undertaken to establish the possible impact on the use of custody.	Q4 2022	Research & Data Analytics
13 To review the Prison Rules 2007 in light of recent changes to the European Prison Rules	Timeframe (commence)	Lead
13.1 Complete the review of the Prison Rules, including stakeholder consultation, and submit a report to the Department of Justice.	Q3 2022	IPS
13.2 Develop the policy proposals needed to enable the relevant amendments to Prison Rules 2007 to keep them aligned with the revised European Prison Rules.	Q4 2022	Criminal Policy
13.3 Draft the SI necessary to amend the Prison Rules.	2023	Criminal Legislation

14 To review the existing functions, powers, appointment procedures and reporting processes for prison visiting committees	Timeframe (commence)	Lead
14.1 Finalise the terms of reference for a review	<i>Complete</i>	Criminal Policy
14.2 Conduct consultation with relevant stakeholders as required	Q3 2022	Criminal Policy / Research and Data Analytics
14.3 Delivery of report and recommendations to Government	Q4 2022	Criminal Policy
15 Post-implementation of the Parole Act 2019, examine the introduction of the Regulations necessary to determine eligibility for parole, including those serving long-term fixed sentences, under the new Statutory Board.	Timeframe (commence)	Lead
15.1 Examine the policy base to allow for the introduction of the Regulations necessary to determine eligibility for parole under the new statutory Parole Board.	Q4 2023	Criminal Policy
16 Ratify the Optional Protocol to the UN Convention Against Torture	Timeframe (commence)	Lead
16.1 General Scheme of the Inspection of Places of Detention Bill to be presented at Cabinet	<i>completed</i>	CJ Legislation
16.2 Consideration of the detailed structural design and associated resource requirements for NPM for Justice Sector.	<i>ongoing</i>	Relevant bodies, CJ Governance
17 Review policy of holding immigration detainees in prisons	Timeframe (commence)	Lead
17.1 Working Group to deliver policy proposals	Q3 2022	ISD

18 Implement a new Youth Justice Strategy, emphasising prevention, early intervention and inter-agency collaboration	Timeframe (commence)	Lead
18.1 Develop a framework for actions to prevent offending behaviour occurring.	<i>ongoing</i>	Criminal Policy
18.2 Enhance criminal justice processes with detention and post-detention measures to provide consistent support to encourage desistance from crime and promote positive personal development for young offenders.	<i>ongoing</i>	Criminal Policy
18.3 Place a strong focus on those who are harder-to-reach.	<i>ongoing</i>	Criminal Policy
18.4 Develop specialist project approaches based on evaluated pilots.	<i>ongoing</i>	Criminal Policy
18.5 Enhance significantly the existing network of Youth Diversion Projects, (YDPs) encompassing early intervention and family support measures.	<i>ongoing</i>	Criminal Policy
18.6 Develop a range of interventions and approaches which can be tailored to local circumstances.	<i>ongoing</i>	Criminal Policy
19. Introduce a diversion approach for young adults 18 to 24 years old, for certain offences, building on the experience of the Youth Diversion Programme, the adult caution and the Health Diversion Programme in relation to possession of drugs for personal use (2.2.6 Youth Justice Strategy)	Timeframe (commence)	Lead
19.1 Develop a diversion approach for 18 to 24 year olds aligned with the Youth Justice Strategy using evidence-based design principles.	<i>ongoing</i>	Criminal Policy

19.2 Prepare a discussion / scoping paper with suggested next steps and the development of a workable model for young adult diversion.	Q3 2022	Criminal Policy
20 Create the offence of grooming children to commit crimes.	Timeframe (commence)	Lead
20.1 Progress the Criminal Justice (Exploitation of children in the commission of offences) Bill 2020	<i>ongoing</i>	Criminal Legislation
21 Extend the pilot schemes of the Youth Joint Agency Response to Crime to more areas to target prolific repeat and vulnerable offenders aged 16 - 21.	Timeframe (commence)	Lead
21.1 Use the findings of the evaluation conducted in 2021/2022 to inform policy decisions the future use of the Y-JARC approach, in the context of the implementation of the Youth Justice Strategy 2021-2027	<i>ongoing</i>	Criminal Policy

6. Priority Action 1- To consider the incorporation of prison as a sanction of last resort in statute, in relation to people who do not pose a risk of serious harm, to reduce reoffending and overcrowding in prisons

Policy Background

The PPRG's Recommendation No. 32 sets out that *'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.'* The IOG considers this an urgent matter to be addressed. None of the evidence reviewed by the WG since then contradicts this policy approach.

The Irish Penal Reform Trust (IPRT) campaigns for rights in the penal system and the progressive reform of penal policy. In its 2019 PIPS report, the IPRT described progress in relation to establishing a progressive penal policy as *"mixed"* and the principle of imprisonment as a last resort as *"regress"*.¹²

In its 2018 report on Penal Reform and Sentencing, the Joint Oireachtas Committee on Justice and Equality recommended¹³ that prison should be a last resort for minor criminal offences with the emphasis on progressive penal and sentencing policy, investment in community based sanctions and non-custodial sentences. It noted that community based sanctions are not only more effective in many cases, but can generate community payback and result in enormous savings compared to the costs of incarceration.

The Committee recommended that *'the reasons for an apparent drop in the annual number of community service orders must be examined. The recommendation of the 2013 report of the Oireachtas Justice Committee that prison sentences of less than six months should be commuted and replaced by community service orders, should be implemented without delay. The Probation Service must be provided with the necessary resources it would require on foot of a greater emphasis on community based sanctions.'*

In the final report following the delegation's visit to Ireland in September 2019, the CPT recommended *"... the Irish authorities take steps to tackle the phenomenon of local overcrowding in the prisons through promoting greater use of alternatives to imprisonment and remand detention, and notably as regards short sentences"*.

In his 2020 report on recidivism, "An Evidence Review of Recidivism and Policy Responses", Professor Ian O'Donnell rightly points out that sentencing is a matter for the courts and cannot and should not be interfered with by direct policy interventions.

¹² Mixed = "Where there has been neither significant progress nor regress". Regress = "Where there has been identified and significant movement away from attainment of the standard".

¹³ Recommendation 20

However, he highlights the lack of support in the papers he reviewed for the deterrent value of short prison sentences and the potential social and financial benefits associated with a move away from short bursts of custody as a response to law breaking.

Based on the findings of his report Professor O'Donnell proposes that there may be lessons to be learned for the legislature regarding possible law reform, the judiciary about the relative efficacy of different sentencing options, and for policy makers and practitioners regarding what works, how, and for whom. Since there is evidence that prison is criminogenic, he suggests that the arguments against using it are persuasive. While necessary as a sanction of last resort the desirability of an approach that is less willing to spend money on keeping people in prison is indicated.

The effectiveness of short custodial sentences as a penal sanction

One of the most significant issues surrounding the use of prison as a sanction and the under use of community sanctions is the number of sentences of less than 12 months duration.

Many factors, including family background and circumstances, education, employment, social network and problematic drug use among others, are cited in research as contributory factors in offending behaviour and crime. For those already involved in the criminal justice system, the path to a positive lifestyle in the community is difficult, with many obstacles and risks. Desistance research has shown that changing offending behaviour and lifestyle is not an on-off switch but a rocky path marked by relapse and restarts.

For most people in trouble with the law, there are contributory factors in play. There is need for support, guidance and hope, especially when they have failed, repeatedly. Reoffending research, for example the Probation Service – CSO Reoffending studies, show that offending can be diminished over time. Irish and international desistance studies have shown that that reduction in reoffending and desistance can be prompted, supported and speeded up, over time through supervision in the community, appropriate support and access to services.

It is recognised that there is no quick fix to reducing recidivism. Targeted interventions, particularly in the community, including increasing access to treatment for problematic drug use, employment opportunities and increased use of community funded organisations, will result in better outcomes for the most marginalised offenders including females, the under 25 age group and members of the traveller community.

In his 2020 report on recidivism Professor Ian O'Donnell explores a number of common interventions aimed at reducing recidivism employed in many jurisdictions. These include sentencing, early release, in-prison treatment, and community-based treatments. Material drawn upon includes research undertaken in Spain, Switzerland, Denmark, the Netherlands, England, Wales, Scotland, Sweden and Germany.

He states that, "*Knowing the characteristics of recidivism prone individuals or situations will allow interventions to be targeted with greater precision and confidence. This is not*

only to the advantage of the individuals concerned and to their families, but there is a potential diffusion of benefits to the wider community. Social inclusion is promoted. Trust and civic participation are increased.”

As already stated, Professor Ian O’Donnell points out in his 2020 report that sentencing is a matter for the courts, cannot, and should not be interfered with by direct policy interventions. However, as he points out and it is worth repeating, there is evidence that prison is criminogenic and he argues in favour of using it less, particularly in respect of short sentences.

The key findings of the report include:

- Suspended sentences or community service can be more effective than short terms of imprisonment in terms of reducing recidivism.
- Planned and structured early release, including parole, may reduce recidivism.
- Perception of fairness may have an impact on likelihood of recidivism. A perception of procedural unfairness can lead to alienation, resistance and noncompliance, whereas a belief that one has been treated fairly may reduce the likelihood of future offending.

Number of people in prison

The daily average number in custody peaked at 4,108 in February 2020, before subsequently declining by 9.8% (-401) to 3,707 in June 2020. This reflects the reduction in new committals due to the COVID and the increase in the use of Temporary Release during this period.

In 2021, the daily average number in custody was on an upward trajectory until July, with a seasonal decrease evident in August, before increasing again in October. From May 2020 to May 2022, there was a **7% increase** (+273) in the daily average number of persons in custody.

Prior to the onset of the Covid-19 pandemic, the daily average number of persons in custody on trial/remand was at its peak from February to May 2020. In May 2020, the daily average number of persons in custody on trial or remand began to decline, reflecting a decrease in committals in light of the COVID pandemic.

However, the daily average on remand has been increasing since July 2021 and by May 2022 had reached a new peak of 897. From May 2021 to May 2022, there was a 34% (227) increase in the daily number of people held on remand (Table 2).

Table 1: Daily Average Number of Persons in Custody per year

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	3,948	3,965	3,999	4,018	3,996	3,999	4,031	3,927	3,851	3,935	4,009	3,971
2020	3,992	4,108	4,062	3,822	3,764	3,707	3,749	3,723	3,684	3,748	3,791	3,733
2021	3,681	3,782	3,788	3,763	3,801	3,859	3,862	3,806	3,776	3,814	3,840	3,753
2022	3,765	3,886	3,947	3,994	4,037	-	-	-	-	-	-	-

Table 2: Daily Average Number of Persons on Remand/Trial per year

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	714	705	661	696	692	75	688	652	700	778	773	723
2020	761	793	792	790	778	731	671	676	730	745	728	655
2021	666	711	682	682	670	683	658	687	747	781	815	764
2022	785	834	817	883	897	-	-	-	-	-	-	-

On 11 March 2020, before measures to combat the effects of Covid19 in prisons were implemented, there were 4,235 people in custody with 784 persons on remand. Following targeted interventions, to safely reduce the numbers in custody to ensure effective infection control measures, there had been a 13% reduction in prison numbers with 3,661 in custody and 615 on remand on 31 January 2021. However, these numbers have increased significantly in recent months, as the downstream impact of Covid restrictions on the courts being loosened having a major effect on prison numbers. As of 30th June 2022, there were 4,154 persons in custody and 926 on remand.

The WG also notes that the decrease in the number of people in custody from 2019 to 2021 reflects the broader effect of Covid-19 restrictions, which saw a significant scaling back of Court activities and subsequent committals to custody (see Table 3).

Table 3: Number of committals per year

	2013	2014	2015	2016	2017	2018	2019	2020	2021
All Committals to Prison (Total)	15,735	16,155	17,206	15,099	9,287	8,071	8,939	6,340	6,133
All Committals to Prison (Excl. Fines)	7,614	7,176	7,323	6,660	7,026	7,616	8,078	6,055	5,899

After some years of decline in committals following implementation of the Fines (Payment and Recovery) Act 2014, the number of committals for the non-payment of court ordered fines **increased** from 455 in 2018 to 861 in 2019. Fine defaulter committals have

continued to **decrease** year on year, from 285 in 2020 to 234 in 2021 – overall, this represents a **49% decrease** in four years.

At the same time, the number of persons given Community Service Orders in courts for non-payment of fines has increased from 455 in 2018 to 861 in 2019, representing an 89% increase within one year. **However, there is considerable potential for the increased use of community service in lieu of custody for the non-payment of fines and reduce the use of custody.**

The total number of sentenced committals (excluding fines) decreased by approximately 15% from 4,357 in 2018 to 3,707 in 2021 - the majority for sentences of 12 month or less. In 2021, 71% of all committals under sentence were for sentence of 12 months or less.

The WG also notes that the proportion of people in custody on remand increased from 12.9% in 2012 to 18.8% in 2021.

The IPS began publishing monthly data on the length of time individuals are held in custody solely on remand in June 2019. The proportion of these remand prisoners in custody solely on remand for a period of one year or more has decreased from 12.1% of all remand prisoners in January 2021 to 10.1% of all remand prisoners in May 2022. Over the same period, the proportion of remand prisoners in custody for 6-12 months has dropped from 18.0% to 15.3% of all remand prisoners (see Table 4).

Table 4: Duration of Remand

	<1 month	1 to 3 months	3 to 6 months	6 to 9 months	9 to 12 months	1 to 2 years	2 years+	Total
31/01/2021	155	127	117	67	36	60	9	571
31/05/2022	204	206	130	72	39	54	19	724

One consequence of prisoners being held on remand for longer is an increase in the overall number of remand prisoners, through a reduced turnover of remand prisoners. The daily average number of persons held on remand has increased year-on-year since 2015. From 2015 to 2021, there was a 30% increase in the daily average number of persons held on remand, from 496 to 712 persons.

A further recent feature of remand prisoners is the increasing seriousness of the criminal charges that face many of these remand prisoners are required to be detained for much longer periods than is normally the case for remand prisoners, with increasing numbers of them requiring imprisonment at higher levels of security. Since 2015, there has been an increase in the number of persons being held on remand for serious offences including homicide offences, sexual offences, attempts/threats to murder, organised crime offences and controlled drug offences.

The WG notes an increase in the number of female committals to prison on remand, with the number on an upward trajectory from 2014 onwards (see below table).

Remand Committals as a Proportion of Overall Committals
(excl fines)

	2013	2014	2015	2016	2017	2018	2019	2020	2021
Remand Committals ¹⁴ as a % of Overall Committals (excl. fines)	61.9	64.0	66.4	67.6	70.7	70.7	69.8	65.7	61.6
Total Number of Committals (Female) excl. fines	793	737	715	740	767	898	966	583	531
Number of Remand/Trial Committals (Female)	491	472	475	500	542	635	674	383	327

The rise in the number of female committals on remand has occurred in the context of an increase in female committals overall. The proportion of female committals on trial/remand has increased steadily, from 62% of all female committals in 2013, to 71% of all female committals in 2017. This figure remained static from 2017 to 2018, before decreasing slightly in 2019. This data suggests that the increase in the number of custodial remands for women is contributing to the rising number of female committals overall, and in turn overcrowding. It is also important to note that the decrease in the number of female committals by 51% since 2019 was a result of Covid restrictions on the activity of courts, which reduced their capacity. The downstream impact on the prison service was reduced committals to custody overall – including remand/trial committals.

This downward trend has since reversed. The following tables demonstrate the increase in committals and number in custody since 2021.

Comparison of Committals January to June

	Committals	Persons
Year 2022	3,672	3,328
Year 2021	3,221	2,953
Year 2020	3,297	2,996
Year 2019	4,697	4,173
Year 2018	4,116	3,681

Comparison number in custody & temporary release – last day of month

	Number in Custody	Number on Temporary Release
30 th June 2022	4,154	276
30 th June 2021	3,891	386
30 th June 2020	3,717	326
30 th June 2019	4,010	326
30 th June 2018	4,002	209

¹⁴ Committal reason is remand – they may have subsequently picked up a sentence

The WG notes that the Irish Prison Service (IPS) is committed to ensuring that any person committed to custody is, in so far as possible, provided with a permanent bed in a prison cell. To achieve this, and to ensure the effective management of the increasing prisoner population, the IPS developed a Prison Population Management Plan in 2019 aimed at maximising capacity within the estate and increasing the use of open centres and the use of back door strategies, including structured temporary release.

The IPS conducted a full cell audit across the Prisons Estate, which included an examination of the capacity of cellular accommodation in accordance with the minimum standards for multiple occupancy. As a result, approx. 135 additional beds were introduced across the Prison estate, including 60 in Wheatfield Place of Detention, 30 in the Midlands Prison and 40 in the Dochas Centre for female prisoners in Dublin.

Criminal Justice (Community Sanctions) Bill 2014

The Criminal Justice (Community Sanctions) Bill 2014 updates the Probation of Offenders Act 1907 with modern provisions dealing with community sanctions and the role of the Probation Service in the criminal justice system. It will facilitate the effective and efficient use of community sanctions by the courts and will ensure that the courts have a wide range of appropriate options for dealing with persons who have committed minor offences. The legislation also takes account of the interests of victims of crime by making it a statutory requirement for the courts to have regard to the interests of victims when making decisions about community sanctions.

The review notes the ongoing review of the General Scheme of the Criminal Justice (Community Sanctions) Bill 2014 and agree that a detailed review and consideration of the policy rationale is timely. It presents an opportunity to provide for any necessary adjustments to underpin and strengthen the role of alternative sanctions and to consider relevant developments such as the mutual recognition of non-custodial sentences, and the impact this may have on prison population.

Recommendations

A comprehensive range of priorities and ambitious plans for delivery of initiatives already in train represent a coherent approach to tackling reoffending. These include the implementation of a new Youth Justice Strategy, establishment of the Task Force on mental health and addiction challenges of persons who interact with the criminal justice system, as well as implementation of the Social Enterprise and Employment Strategy 2020-2023.

In order to achieve the objectives of priority one it is also proposed that:

- Give policy consideration to establishing the principle of prison as a sanction of last resort in statute.

- Consideration should include an examination of the presumption against the imposition of short custodial sentences for individuals who do not pose a risk of harm to the public.
- An examination should commence of options to promote targeted community based alternatives to imprisonment. These could be included in a policy review of the Criminal Justice (Community Sanctions) Bill 2014.
- Commission research on the impact of the Criminal Justice (Community Service) (Amendment) Act 2011. The research should include a focus on the custodial sentences of less than 12 months including the incidence of females on remand.
- Develop a coordinated, effective effort to reduce the number of persons, who do not pose a serious risk of harm, being committed to prison for sentences under 12 months.
- Examine matters surrounding remand, its impact, and alternative options.

7. Priority Action 2 - To develop and expand the range of community based sanctions including alternatives to imprisonment to reduce re-offending and overcrowding in prisons

Defining community sanctions

[C]ommunity sanctions and measures ... maintain suspects or offenders in the community and involve some restrictions on their liberty through the imposition of conditions and/ or obligations. The term designates any sanction imposed by a judicial or administrative authority, and any measure taken before or instead of a decision on a sanction, as well as ways of enforcing a sentence of imprisonment outside a prison establishment.

Council of Europe Recommendation (2017)3 of the Committee of Ministers on the European Rules on community sanctions and measures¹⁵, Rule 31.

Non-custodial penalties, particularly supervised community sanctions, play a significant and vital role in addressing criminality, reducing reoffending and providing a degree of protection to the public. Such disposals not only hold an individual accountable for their behaviour but also offer them a path back to social inclusion and a pro-social lifestyle, which can serve to reduce the damage on their families. Community disposals also assist in keeping particular victim issues to the fore of the individual's mind as well as allowing for some restorative justice interventions with the victim's participation when they wish to do so.

¹⁵ Recommendation [CM/Rec\(2010\)1](#) of the Committee of Ministers to Member States on the Council of Europe Probation Rules

The January 2021 report by the Sentencing Academy¹⁶ found that the re-offending rates for offenders sentenced in England and Wales to short terms of immediate imprisonment were higher than rates for offenders sentenced to either a community order or a suspended sentence order, 48% for those sentenced to a period in custody compared to about 33% for those sentenced to community orders.

The latest CSO stats on recidivism in Ireland – published in June and December 2021 - found that 47.5% of those sentenced to a period in custody re-offended within a one-year period compared to 29% for those sentenced to sanctions in the community.

There are evident economic savings in using community orders compared to the cost of incarceration in this country. The average cost of an “available, staffed prison space” in 2020 was €80,445. Probation Supervision in 2020 is estimated to cost approximately €5,712 per year.¹⁷

In line with *European Rules on community sanctions and measures* the Probation Service in Ireland, consider the following points to be key aspects of effective community sanctions and measures:

- Community sanctions should be regulated in such a way to promote social inclusion and not only punishment and deterrence;
- Legislation should include provision for a wide range of community based sanctions and measures, pre-trial and post-custody.
- Community sanctions and measures should accord with the principle of proportionality and dispensed in accordance to the seriousness of the offence as well as regard to the circumstances of the offender and with observance to the penal objectives of retribution, deterrence and rehabilitation.
- Community sanctions and measures should be available to all offenders without direct or indirect discrimination, thereby respecting diversity in all its forms.

Overview of the Probation Service

The Probation Service is the lead agency in the assessment and management of in the community in Ireland of people who offend but does not manage all community sanctions. The Probation Service works with people from pre-sentence right through to post-release. Probation Officers prepare pre-sanction reports for the Courts as well as reports for the Parole Board. The Probation Service also provides Restorative Justice Programmes and Victim Support Schemes.

¹⁶ Hamilton, M (2021) The Effectiveness of Sentencing Options: A review of key research findings. Sentencing Academy: London. <https://1v6.c22.myftpupload.com/wp-content/uploads/2021/01/The-Effectiveness-of-Sentencing-Options.pdf>

¹⁷ The Probation Service has commenced an updating of cost data which estimated the cost of Probation Supervision in 2013 at €5,100 per year.

In assisting the Court determine the suitability of a person for a community sanction, the Probation Service may be requested to prepare a pre-sanction report for the consideration of the sentencing judge. In 2019, the Service completed over 16,000 such reports.¹⁸

In October 2021, the Probation Service was supervising 3,460 people on Probation-type supervision 1,985 people on community service, 1,464 people on court-mandated post-release community supervision and 189 on conditional temporary release from prison.

The Probation Service supervises a range of Court Orders:

Probation Orders/Part Suspended Sentence Supervision Order: Individuals can be sentenced to periods of probation supervision under the Probation of Offender's Act 1907, the Criminal Justice Act 2006, the Sex Offenders Act 2001 and the Children Act 2001. The Court Orders usually have conditions attached such as, attendance for treatment for addiction or mental health, attendance at counselling and the completion of an offending related programme to address their offending behaviour.

Community Service Orders: Individuals can be ordered to undertake community service work ranging from 40-240 hours under the Criminal Justice (Community Service) Act 1983 and 30-100 hours under the Fines (Payment and Recovery) Act 2014. Such work is unpaid and for the benefit of the community.

Community Service also incorporates an integrated element whereby training or counselling programmes are encouraged and when verified can contribute to completion of the Order. Community Service work can be imposed as a condition of temporary release as part of the Community Return Scheme. This scheme enables prisoners to be released from custody earlier on certain conditions including the completion of community service hours.

Supervised Temporary Release: As of the end of June 2021, the Probation Service was supervising 113 life sentenced prisoners and 72 prisoners on the Community Return Programme on conditional temporary release under the Criminal Justice Act 1960 and the Criminal Justice (Temporary Release of Prisoners Act) Act 2003.

Supervision of persons by the Probation Service can be summarised as follows:

	2016	2017	2018	2019	2020
Total number engaged with in the Community	14,885	15,269	15,777	16,607	15,537
Supervision	6,749	7,072	7,509	8,661	5,363

¹⁸ 2020 figure is 9,300 which reflects the impact of the pandemic on the activity of the criminal courts

Orders made					
Community Service Orders made	2,067	2,215	2,499	2,791	1,161
Community Return - commenced	301	221	218	206	287
Orders Made for Post Custody Supervision	485	597	557	783	600

Community Based Sanctions

In Ireland, the Criminal Justice (Community Service) (Amendment) Act 2011 provides that a court shall consider making a community service order as an alternative to a sentence of less than 12 months. Despite this, the use of short sentences is prevalent with a significant increase in prison committals for persons serving less than 3 months and, more generally, less than 12 months. The imposition of short custodial sentences is not conducive to rehabilitation of people and can have far-reaching consequences for parenting, accommodation needs and employment.

In her 2014-15 research, examining the comparative use, experience and outcomes of Community Service Orders as alternatives to short prison sentences in Ireland, Dr Kate O'Hara found that in only eight District Court jurisdictions were more Community Service Orders made compared to short custodial sentences imposed. She also found that a case had slightly greater odds of receiving a Community Service Order rather than a short prison sentence in a rural court compared to an urban court¹⁹. Dr O'Hara's finding of low use of Community Service Orders when compared to short-term imprisonment appears to reflect a primacy in practice of the use of imprisonment as sanction rather than a community measure.

The Probation Service is responsible for the delivery of Court ordered community sanctions, primarily supervision and community service orders. The Courts use the former with regularity under the Probation of Offenders Act 1907, the Criminal Justice Act 2006, the Sex Offenders Act [2001-2017] and the Children Act 2001. These Orders involving supervision by the Probation Service are often imposed with condition, for example requiring a person to participate in programmes aimed at addressing their offending behaviour, attend for addiction treatment or access employment services or mental health services.

¹⁹ Kate O'Hara, *Examining The Comparative Use, Experience And Outcomes Of Community Service Orders As Alternatives To Short Prison Sentences in Ireland*. PhD thesis Technical University of Dublin.

The Probation Service manage Community Service Orders under the Criminal Justice (Community Service) Act 1983 and the Fines (Payment and Recovery) Act 2014.

There has been a consistent increase in the number of Community Service Orders supervised by the Probation Service over between 2016 and 2019. In 2019, the Probation Service managed 2,791 Community Service Orders²⁰, totalling 379,815 hours work, in lieu of 1,247 years in prison. This equated to over €3.5 million of unpaid work.

At the same time the number of custodial sentences of less than 12 months imposed in the Courts did not reduce. In 2019, 4,314 Committals on sentences were for under 12 months (2,762 3mths-12mths and 1,552 less than 3 months). Sentences under 12 months represented over 75% of sentences.

In 2019²¹, 247, 628 outcome orders were made in summary cases in the District Court. 1,346 resulted in Community Service Orders (0.54%) and 4,195 sentences of imprisonment were imposed (1.7%).

In 53,878 indictable cases dealt with in the District Court in 2019, 5,181 sentences of imprisonment were imposed (9.6%) and 969 Community Service Orders (1.7%) were made. According to the Probation Service Annual Report 2019, there were, in total, including summary and indictable matters in the District Court, 1,732 Probation Orders supervised by the Probation Service.

While a third of prisoners have some form of post-release supervision requirement, it is notable in respect of structured temporary release that the Probation Service supervises only 5% of those; including those subject to Community Return and life sentenced prisoners.

Compared with other European jurisdictions²² this is a relatively low number and proportion subject to administrative post custody supervision. Expanding the use of supervised temporary release could be a positive benefit in supporting re-entry and resettlement and contribute to addressing prison capacity challenges

The review notes that the data suggests a significantly limited use of the community sanctions provided by the Probation Service in comparison with custodial sentences of less than twelve months in most cases. There is considerable potential to increase the use of community sanctions and reduce the number of short sentences imposed with the potential for non-fixed cost savings.

The review notes that additional investment in Probation Service resources would be needed but would be significantly less than gross custody expenditure savings. Community Service could be utilised in custodial settings to reduce the number of short

²⁰ 2020 figure – 1,161 reflecting the impact of the pandemic on activity

²¹ Court Service Annual Report 2019

²² Marcelo F. Aebi, Yuji Z. Hashimoto and Mélanie M. Tiago (2020) Probation and Prisons in Europe, 2019: Key Findings of the SPACE reports Council of Europe; Strasbourg Figure 1.
https://wp.unil.ch/space/files/2020/06/KeyFindings_Probation-and-Prisons-in-Europe_200617_final.pdf

sentenced prisoners by increasing the use of early-supervised temporary release orders with conditions requiring Community Service work in lieu of time in custody.

It is proposed that the Department of Justice commissions research on the impact of the Criminal Justice (Community Service) (Amendment) Act 2011. The research should include a focus on the custodial sentences of less than 12 months. It should also examine the high proportion of females on remand in custody while awaiting trial.

Females in the Criminal Justice System

An increase in prison numbers has also been noted in female prisons. The total female population in 2018 was 548 and 678 in 2019. In 2018, 89% of all sentence committals for women were for 12 months or less, in 2019 the figure was 91%.

Most women who offend pose a low risk to society but present with a high level of need. The joint IPS/Probation Service Strategy “An Effective Response to Women Who Offend” provided the starting point for focused interventions for female offenders. This approach, which has been and continues to be built upon, should be further strengthened.

In her study ‘Tracking the Needs and Service Provision for Women Ex-Prisoners’²³, based on 16 in-depth interviews with women in the Dochas Centre, McHugh reported that services to tackle addiction was identified as the most basic and urgent need by the women interviewed. Homelessness has been a common feature for female prisoners on release. In 2005, Seymour and Costello²⁴ found that 50% of women prisoners had previously been homeless.

In 2018, the Joint Oireachtas Committee identified the increase in the numbers of female prisoners as a particular pressure point in prisons. This is being addressed in a number of ways, including improving accommodation for females in prisons and by significantly enhancing pathways for female prisoners back to the community.

For example, the current capacity of Limerick female prison is 28. The new female prison in Limerick is under construction and will increase capacity to 70 prison spaces. This new facility, together with a range of ancillary services, will enhance the regimes and supports available to female prisoners.

In 2019, a step down facility in Dublin for female prisoners and women on community supervision was opened in partnership between the Irish Prison Service and the Probation Service. It allows women, who have served a large portion of their sentence in a closed prison environment, to gain life skills through living in a semi-independent manner. This facility, provided on contract by Focus Ireland, is a welcoming environment for

²³ Tracking the Needs and Service Provision for Women Ex-Prisoners’ Rosemarie McHugh ACJRD 2013
https://www.acjrd.ie/files/Tracking_the_needs_and_service_provision_for_women_ex-prisoners_-_Final.pdf

²⁴ Seymour, M. and Costello, L. (2005) [A Study of the Number, Profile and Progression Routes of Homeless Persons before the Court and in Custody](#). The Probation Service: Dublin

women who pose a low risk to society and a support to assist their reintegration into the community.

In addition to the development of dedicated wrap-around services for women such as the 218 project in Glasgow, SAOL and its BRIO Programme have shown promising results in Ireland. BRIO is a two-year education and training programme for women who have the dual issues of criminality and addiction. The programme is used not only post-custody but is also utilised for women in the community to reduce their risk of entering custody in the future.

It would be timely to repeat the 2005 study on the Number, Profile and Progression Routes of Homeless Persons before the Court and in Custody by Seymour and Costello as part of new accommodation and support planning for females in conflict with the law and to identify current issues, challenges and opportunities.

The review notes the One Stop Shop model of community-based service provision for women in conflict with the law has been shown in Scotland to be particularly effective in bringing together mental health, addiction and personal support services together in one structured and safe centre. The Turning Point 218 Centre²⁵ in Glasgow is a strong and long established example of innovative and holistic community provision for women in conflict with the law.

The review also notes that Ireland has experienced a significant increase in the numbers of people remanded in custody; this increase has been more acutely noticed in the female prisoner population. There has been a 37% increase in the number of women remanded in custody between 2013 and 2019. The highest concentration of women on remand in the 31-40 age cohort. Remand committals as a percentage of overall committals (excl. fines) is up from 62% in 2013 to 70% in 2019.²⁶

Bail supervision helps minimise the numbers of individuals held on remand in custody pending trial or for reports after conviction who, subject to safeguards in respect of public protection, could be released on bail to the community pending their further court hearing. Providing bail supervision services orientated to the needs of the individual and the community can help ensure that remand is used only where necessary and appropriate.

The Bail supervision scheme operated in the Children Court in this jurisdiction for child offenders has shown promising results. However, there are potential benefits in exploring and considering an alternative model of bail supervision such as the one operated in Scotland.

In Scotland, Bail Supervision is a social work or third sector service whereby individuals who would otherwise be held on remand are released on bail on the condition that they meet with a bail supervisor a specified number of times a week; the aim of these meetings being to support the individual to comply with the conditions of their bail. The Bail

²⁵ Turning Point Scotland 218 provides an alternative to custody for women in the justice system.

<https://www.turningpointscotland.com/218-explainer-video/>

²⁶ Women and Remands Dr Caroline Finn Irish Prison Service 2019.

supervision schemes operate within the provisions of the Criminal Procedure (Scotland) Act 1995 (specifically Part III Provision 24 (4) (b)).

A preliminary analysis in Scotland in 2004 reported that it was '[a] commonly expressed view was that the number of accused remanded in custody could be reduced through an increase in funding for bail schemes involving the assistance of social work departments or voluntary sector organisations.'

A Scottish Government report in 2012 on the use and impact of bail supervision²⁷ found the primary target group of supervised bail was borderline remand cases, specifically but not exclusively, young people and female accused. One fifth of cases where there had been a supervised bail order resulted in prison sentences, two fifths resulted in community sentences, and the remaining had resulted in another disposal, or no disposal where the accused had been found not guilty or the case had been dropped. Findings suggested that successful completion of supervised bail encouraged the use of community sentences over prison sentences.

The Report's economic analysis found that the net benefits of supervised bail as an alternative to remand over the three years examined were between £2 million and £13 million.

The review notes the recent development of the 2021 Probation Service paper "Best Practice Approach" and recommends its incorporation into working with women who offend. The WG further notes that the review of the implementation the Action Plan for the Joint Management of Offenders 2019-2021 is underway with a view to developing a follow-up Action Plan (CJ Sectoral Strategy 1.6.2). This provides an ideal opportunity to include specific actions aimed at addressing some of the issues for women who offend outlined here.

Transfer of Community Sanctions and Measures in Europe

Ease of mobility and movement within the European Union has led to an increased number of people coming to live in Ireland. However, not all wish to remain in Ireland long-term, and some people, including some who have been in conflict with the law and have had community sanctions and measures imposed (including supervision after release from custody), may wish to return home. EU Council Framework Decision 947/2008 provides for the transfer and enforcement of community sanctions and measures between jurisdictions in the EU. Framework Decision 947/2008 has been transposed into Irish law in the Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2019.

The aim of mutual recognition and supervision of community sanctions and measures is to enhance the prospects of the sentenced person being reintegrated into society, by enabling that person to preserve family, linguistic, cultural and other ties. It is now

²⁷Supervised Bail in Scotland: Research on Use and Impact. Carole Wilson and Joe Perman
<https://www.nls.uk/scotgov/2012/9781780457451.pdf>

possible for a person in Ireland to seek to transfer a community sanction imposed in Ireland to be completed in another EU jurisdiction or to have a community sanction transferred into Ireland. The Probation Service is the Competent Authority for transfer of community sanctions and measures, on behalf of the Minister for Justice.

Awareness and knowledge of this opportunity to transfer community sanctions and measures should be promoted and widely disseminated among the judiciary, legal professionals and persons subject to supervised community sanctions and measures.

Recommendations

The review notes that many of the issues that lead to offending are complicated by personal and social issues and circumstances. A whole of government response is therefore required in collaboration with relevant agencies, local authorities and community organisations in addressing offending behaviour and assisting offenders in maintaining crime free lives. The following recommendations should be explored and progressed:

- Further develop and expand the range of community sanctions both supervised and unsupervised for medium to high-risk offenders. The overall approach should include the development of diversity sensitive approaches to offenders including the Traveller community and other marginalised groups.
- Explore the efficacy and value of a Bail Supervision Scheme for female, young adult and other marginalised persons including those with severe and enduring mental illness as an alternative to remands in custody.
- Build on the joint IPS/Probation Service strategy “An effective Response to Women Who Offend” and incorporate the recently developed “Best Practice Approach”.
- Explore the feasibility of providing a structured rehabilitative response for women
- Consider the introduction of Weekend non-custodial sentences in conjunction with Probation/IPS.
- Engage with CSO on scope for further research to enhance understanding of impact of homelessness, addiction and/or mental health challenges and the availability of social and familial supports on recidivism.
- Promote awareness and knowledge of the mutual recognition and possibility of transfer of community sanctions and measures between jurisdictions in the European Union as provided in the Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2019.

8. Priority Action 3 – To take forward the implementation plan of the taskforce established to consider the mental health and addiction challenges of those imprisoned and primary care support on release

The Programme for Government includes a commitment to establish a taskforce to consider the mental health and addiction challenges of those imprisoned and primary care support on release.

The healthcare needs of persons interacting with the criminal justice sector are complex and require whole of systems consideration and action. Previous work in this area was done through an Interdepartmental Group established in 2012 to consider issues arising from the interaction of the criminal justice system and mental health services.

The Group's first report focused on how diversion at all stages of the criminal process could be facilitated. The Group's second report in 2018 focused on matters relating to mental health services for prisoners, persons subject to community sanctions and post-release health services. It also considered matters relating to patients detained under the Criminal Law (Insanity) Act 2006.

It is recognised that there is an urgent need to design and put in place proper systems to care for the most vulnerable people who encounter the criminal justice system. Delivering on this requires cross-departmental willingness and the planning and implementation of an appropriate model of care for this vulnerable group. This will be complex work and the progress made in the detailed work on Health Needs Assessment in the Prison Service will complement it.

The High Level Taskforce was established in April 2021 chaired by former Minister for State with responsibility for Primary Care, Mental Health and Disability, Kathleen Lynch.

The Task Force has held ten meetings since its establishment. To ensure progress is made on multiple fronts simultaneously, three subgroups have been established to consider issues relating to diversion, the Irish Prison Service and National Forensic Mental Health Service Capacity and Community issues and through care from detention. Consultation was undertaken on both a plenary and subgroup level as required and included, amongst others, vital stakeholders such as the Mental Health Commission and the Irish Penal Reform Trust.

A progress report was produced in Q.4 2021 with a high level implementation plan to relevant Ministers expected in Q3 2022. The WG has no further recommendations to make on this except to propose a monitoring role on the progress made on the eventual implementation plan.

9. Priority Action 4 - To ensure that all criminal justice policy decisions are pre-assessed to determine, as far as possible, their impact across the criminal justice sector

The Penal Policy Review Group recommended in 2014 that all future policy decisions in the area of criminal justice be pre-assessed with a view to determining, where possible, impacts on prisoner numbers and numbers to be subject to other forms of sanction.

Some work was completed on this during the intervening years and high-level approval obtained. However, a mechanism to implement a Critical Impact Assessment of policy decisions on prisoner numbers and probation resources was not finalised and never introduced.

The development of a Criminal Justice Sectoral Strategy for a coherent approach to the criminal justice system provides the ideal opportunity now to widen the scope of the Critical Impact Assessment to all aspects of the criminal justice system encompassing policing services, prisoner numbers, probation resources and court services.

In implementing the strategy, it is intended to introduce protocols to ensure that all future policy decisions in the area of criminal justice are pre-assessed to determine impacts on caseload and capacity at each stage of the system.

This will be developed within the lifetime of the Criminal Justice Sectoral Strategy, which runs from 2022 to 2024.

10. Priority Action 5 – To establish a Penal Policy Consultative Council

The establishment of a Consultative Council is one of the PPRG's 2014 recommendations. The PPRG envisaged that future penal policy would benefit from additional oversight and consultation.

An advisory Council that would consult with relevant bodies on specific issues relating to penal policy could ensure that there is a consistent approach to such policy, focusing on reducing imprisonment as a sanction and the rehabilitation and reintegration of offenders.

The Programme for Government 2020 includes a commitment to "*Establish a Penal Policy Consultative Council to advise on penal policy.*"

The WG acknowledges the potential for the Council to deliver benefit to the development of progressive and aligned prison and penal policy. A paper setting out

its recommendations for terms of reference, composition and operation of the Council has been developed.

It is recommended the Council's role should be to offer independent advice to the Minister, be non-political in nature and not act unilaterally. It is also proposed an independent Chair of the Council should be able to initiate, with the agreement of the Minister, the Council's consideration of additional topics and themes that it believes are central to effective penal policy and outcomes. It is envisaged the Council will include representatives from academia, the legal profession, forensic science, victim's groups and the IPRT. A cross-border representative is also proposed.

11. Priority Action 6 –To introduce judicial discretion to set minimum tariffs for life sentences and examine the effectiveness of use of mandatory minimum sentences for certain crimes

In setting out certain key tenets in relation to penal reform and the use of prison as a sanction of last resort, this policy recognises that prison should be used as a sanction for those who commit serious crimes, and that particularly heinous offences which cause considerable harm and distress to victims, up to and including murder, should be dealt with in a proportionate manner which attends to the impact on the victim and their family, as appropriate.

At present, the State has a number of legislative enactments which seek to address such concerns through obliging the Courts to sentence offenders to mandatory minimum periods of imprisonment. Some such enactments, particularly in relation to certain drugs and firearms offences, provide scope for the judiciary to take into account exceptional circumstances and to lower the sentence below the mandatory minimum, while other enactments provide no such scope, such as that of the life sentence for murder, and others additionally provide a minimum tariff, or period of imprisonment that must be served without chance of parole, namely capital murder and treason.

Under the Judicial Council Act 2019, the Minister for Justice is obliged to complete a review of these enactments which provide for mandatory minimum sentences, with a view to determining if these enactments remain appropriate, and to lay a report of this review before the Houses of the Oireachtas in December 2022. This review has been commenced with a view to meeting this statutory obligation, and its report will have an impact on the use of such sentences, including in relation to murder, going forward.

Separately, but related to the mandatory minimum sentences, the Department of Justice's Justice Plan 2022 contains a commitment to bring forward proposals to make changes to the law in relation to life sentences.

At present, under the Parole Act 2019, a prisoner sentenced to life is eligible to go before the Parole Board having served 12 years. A review of life sentences may consider

providing the judiciary at the time of sentencing with the discretion to set a minimum tariff for individuals to remain in prison ineligible for parole, having regard to the aggravating and mitigating factors in a particular case. This could increase the ineligibility period from 12 to a longer period, such as 20 or 30 years, at the discretion of the judiciary.

While a form of precedent has been set for this in relation to capital murder and treason, which both place a minimum tariff of forty years, this review will consider other life sentences, including those where there is not a mandatory life sentence but the maximum penalty applicable is life. This includes offences such as rape, assault causing serious harm and aggravated burglary.

As this work progresses, the Minister will be consulting with the Attorney General and other Government colleagues and the recommendation from the Law Reform Commission's 2013 report on Mandatory Sentences will inform this process.

12. Action 7 – To review the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 to broaden the range of convictions that are considered spent

The Programme for Government commits to a review of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 to broaden the range of convictions that are considered spent.

The Oireachtas Committee on Justice and Equality, which concluded the 2016 Act is limited in its application and fails to support rehabilitation of more serious offenders, called for a review of spent conviction legislation in the 2018 Report on Penal Reform and Sentencing.

Additionally, Senator Lynne Ruane has pursued reform through the introduction of the Criminal Justice (Rehabilitative Periods) Bill 2018. This Bill would increase the scope and applicability of the 2016 Act and incorporate principles of proportionality and youth justice into Ireland's spent convictions regime.

The previous Government did not oppose the Bill in principle and worked with Senator Ruane to achieve consensus reform of this important area. Key to this is the identification of the types of offences that could become spent under its provisions and of any implications there may be for vetting.

The Department is working to take forward the current Programme for Government commitment. The Justice Action Plan 2021 includes this commitment under Action 153: "Publish proposals to extend the range of the spent convictions legislation to widen the cohort who can benefit from greater employment opportunities".

The work undertaken in the Department to take this forward includes academic research commissioned and published on the Department's website providing an international

comparison, exploring best practice and evidence base for reform. A public consultation and online survey has also concluded.

A Policy Options Paper has been prepared setting out in detail recommendations to broaden the number of convictions that may be considered spent. The paper's recommendations, based on the research and consultation undertaken, are currently under consideration. The WG therefore simply recommends that this work continue.

13 Action 8 – Work with all criminal justice agencies to build capacity to deliver restorative justice safely and effectively

Restorative justice is a criminal justice process that has been shown to help victims recover from crime, reduce reoffending and save public resources.²⁸ It is now widely accepted that restorative justice is compatible with the traditional criminal justice systems of both common law and civil law jurisdictions.

The Programme for Government includes a commitment to work with all criminal justice agencies to build capacity to deliver restorative justice safely and effectively. An appropriate service delivery model is therefore required to promote, support and oversee high quality restorative justice practice at all stages of the criminal justice process, including prevention and diversion. Any proposed model should seek to connect with the expertise and skills of all existing agencies that are currently engaged in the delivery of restorative justice practice.

The Probation Service has formally recognised restorative justice since the 1990s as one method within a suite of measures to provide an effective response to crime. The report of the National Commission on Restorative Justice published in 2009 and the Report of the Penal Policy Review Group published in 2014 both supported the wider application of Restorative Justice in probation practice. The Commission's report recommended that the Probation Service continue to be the lead agency in implementing the wider application of restorative justice. Key developments at this early stage include:

- Establishment in 2000 of two dedicated community based projects (1) Restorative Justice Service (2) Restorative Justice in the Community, both of which have since extended their catchment areas and now offer services across the Greater Dublin area and Tipperary, Laois and Offaly respectively. Established and funded through the Probation Service, both projects provide a restorative justice service to the courts using reparation panels and /or victim offender mediation.

²⁸ See, for example, Shapland, J., Robinson, G. & Sorsby, A. (2011). *Restorative Justice in Practice: Evaluating What Works for Victims and Offenders*. Oxford: Routledge; Strang, H. et al. (2013). *Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review*, Oslo: The Campbell Collaboration; Sherman, L. et al. (2015). Twelve experiments in restorative justice: The Jerry Lee program of randomized trials of restorative justice conferences. *Journal of Experimental Criminology*, 11(4), pp. 501-540; [European Forum for Restorative Justice Research Summary \(2018\)](#). *Effectiveness of restorative justice practices. An overview of empirical research on restorative justice practices in Europe*.

- Section 78 of the Children Act (2001) made provision for the introduction of the Probation Family Conference which following the commencement of the Act in 2005 was rolled out through Young Persons Probation, a dedicated region of the Probation Service established to deliver the community sanctions provided for in the Act. While conferencing has now been integrated in to the supervision of some young people, regrettably the number of referrals from the courts has declined in recent years, from 21 in 2017, to 22 in 2018, to 7 in 2019 (Source: Probation Service Annual Report 2019).

Developments that are more recent include:

- The establishment of the dedicated Restorative Justice and Victims Services Unit in the Probation Service, 2018 in response to the enactment of the Criminal Justice (Victims of Crime) Act 2017
- The *Joint Action Plan for the Management of Offenders 2019-2021* contains a commitment to develop joint arrangements, including victim/offender mediation, for providing victims of crime with opportunities for positive, restorative responses to the harm they have experienced;
- The Probation Service and the Department are stakeholders in a four-year cross-European project (2019-2023), *Restorative Justice: Strategies for Change (RJS4C)*, with partners from ten countries collaborating to implement the Council of Europe Recommendation^[1] that restorative justice should be available at any stage of the Criminal Justice process to any victim and any offender. To this end, the RJS4C has produced an RJ Collective Strategy for Ireland 2019-2023 to promote, increase awareness and accessibility to RJ
- The Department's Plan to help victims and vulnerable witnesses in sexual violence cases, *Supporting A Victim's Journey*, contains commitments to scope requirements for a more integrated consistent, visible and high quality Restorative Justice service for vulnerable victims who wish to pursue that pathway.

Delivery of the Programme for Government Commitment has been set out in the Justice Plan for 2021 in Actions 158 to 162 as follows:

158 Map the current state of play of restorative justice

159 Activate a restorative justice website

160 Develop options for an appropriate mechanism and process to create awareness and availability of restorative justice at all stages of the criminal justice system with consistency of service ensuring quality in training and practice

161 Consult with stakeholders on options and finalise a policy paper on the most appropriate choice

162 Publish policy proposals

^[1] https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808e35f3

On 29 January 2021, with funding from the Department of Justice, RJS4C Ireland launched restorativejustice.ie, on which it published its findings from research to map the use of restorative justice (RJ) in criminal justice in Ireland, over 35 case studies of RJ and restorative practice in Ireland, and other resources.

Next steps focus on Action 162 which is to publish policy proposals. The Criminal Justice Strategic Committee (CJSC) approved an initial options paper. Stakeholder consultation took place in Q3 2021 and provided a clear option to take forward. The recommendations from the consultation has informed the policy paper to be published in Q3 2022, with sign-off by a newly convened subgroup of the CJSC. It is then intended to develop an implementation plan for the agreed policy approach, in line with Action 98 of the Justice Plan 2022.

14 Action 9 – To review remission and temporary release to improve rehabilitation and reduce reoffending and overcrowding in prisons

In Ireland, remission is a form of early release from prison. Remission does not apply to prisoners who are serving a life sentence, or those who are in prison as a debtor or because of contempt of court. Remission is provided for under Rule 59 of the Prison Rules 2007 to 2014 (S.I. No. 252 of 2007 and S.I. No. 385 of 2014).

Once remission is applied to a person's prison sentence, their custody ends and they are released from prison. There are no conditions attached. The person released is not subject to any form of supervision and cannot be arbitrarily returned to prison in the event of reoffending behaviour, i.e. they must go through due process for the subsequent offence.

The steadily increasing number of persons in custody since 2016 and resultant overcrowding is a priority challenge, leading to increased reliance on unstructured temporary release and lack of capacity to deliver appropriate rehabilitative services to persons in custody.

The direction of trends in temporary release figures somewhat mirror the trends in the numbers in custody - rising when custody numbers increase and declining when custody numbers decrease. Between December 2016 and December 2019, there was a **33%** (+76) increase in the number of persons on Temporary Release from 232 to 308.

The PPRG noted in its 2014 report that in comparison to other jurisdictions, Ireland operates lower levels of automatic and enhanced remission. The PPRG also recommended the greater use of structured temporary release, a consistent and transparent application of provisions, based on fair procedures which permits offenders to earn remission of up to one-third (33%) of the sentence imposed if such discretionary remission is to be retained.

While the PPRG, in 2014, did not recommend a change to the standard remission rate, they did favour a more structured approach to release, involving a pre-release system of

assessment. They considered that the aim of rehabilitation and reintegration of offenders sentenced to prison is better served by structured monitored release. Underlying their thinking was the fact that remission is unconditional release and does not involve supervision or the deterrent of being returned summarily to prison should he or she fail to meet the conditions of their release.

The PPRG also considered the situation concerning enhanced remission. They made no recommendation to increase the amount of enhanced remission but considered that the basis for applying enhanced remission should be clearly set out and the application should be fairly and transparently applied. It is important to note that, in awarding enhanced remission the prisoner must have demonstrated significant engagement with available services while in prison, and have taken steps to address their offending behaviour.

In order for a prisoner to be granted enhanced remission, the Minister for Justice must be satisfied that the prisoner is less likely to re-offend and is better able to re-integrate into the community.

In its 2018 report on Penal Reform and Sentencing, the Joint Oireachtas Committee on Justice and Equality did not make any further comment on its 2013 recommendation that standard remission should be increased from one quarter to one third for all eligible sentences of over one month in length and an enhanced remission scheme of up to one half should be made available on an incentivised basis for certain categories of prisoner, particularly those serving a prison sentence for the first time.

The numbers of persons in custody were at the highest level in several years with 4,235 persons in custody on 11 March 2020 with 343 on temporary release and 784 solely on remand. The Minister approved a range of emergency policy and operational measures to be taken to alleviate overcrowding in prison in the context of the threat posed by Covid-19 for Justice and Equality on 16 March. The objective was to reduce numbers to a safe level where effective infection control measures can be managed at each prison in mitigation of the very high risks of COVID-19 in the prison system.

No prisoner who poses an undue risk will be granted temporary release and no one who is remanded for trial can be released. Those who breach conditions can be rearrested and returned to prison.

The Irish Prison Service continues to work closely with all relevant justice and public health agencies, including An Garda Síochána, the Courts Service, the Department of Health, HSE and Dept. of Housing to adopt gradual and planned measures that are in line with public policy and the evolving Covid-19 situation. The number of persons in custody has reduced to the safer level of 3,814 in custody on 31 October 2021, with 290 on temporary release. However, there has been a gradual increase in the number of persons solely on remand to 790 on 31 October 2021.

It is recommended that a policy review of remission and structured temporary release commence. The recent appointment of individual members of an appeals body to consider appeals against the removal of remission because of disciplinary (P19) procedures is a

relevant factor to be considered in terms of the review of remission and how it interacts with incentivised regimes and the P19 system.

15 Action 10 – To review the impact of the Fines (Payment and Recovery) Act 2014 in particular with regard to the imposition of short custodial sentences

Enacted on 1 Jan 2016, one of the primary purposes of the Fines (Payment and Recovery) Act 2014 was to provide for alternatives to imprisonment for the non-payment of fines. These alternatives include attachment of earnings, debt recovery proceedings and community service, which are decided upon at enforcement hearings.

The Act was an important reform of the State's approach to court imposed fines. While one of the main policy objectives under the 2014 Act of eliminating the high numbers imprisoned for unpaid fines is – to all intents and purposes – being achieved, the data demonstrates that high volumes of fines remain unpaid; very few penalties are being applied, while court process and Garda operations are being undermined.

The current low levels of alternative sanctions being imposed on defaulters undermines the success of the original goal, which was to reduce the level of imprisonment for non-payment.

A Review Group has been established to determine the most effective way of ensuring that the policy of minimal committals is preserved to the extent possible, while maximising the effectiveness of the alternative sanctions available to the courts in cases of fine default, and to ensure that the integrity of the criminal justice process at this level is maintained and enhanced.

In advance of the completion of that review, the implementation of the Act to the fullest extent possible is recommended, in order to ensure that a court will only make an order committing a person to prison for non-payment of fines where it is satisfied that the alternative options available to it are not appropriate in the particular case. It is also recommended that the Fines Act review takes into account the increased focus on alternatives to imprisonment outlined in this paper and ensures that they are a key part of any solutions proposed.

16 Action 11 – To improve inter-agency working through the development and implementation of a Criminal Justice Sectoral Strategy and Community Safety Policy

Criminal Justice Sectoral Strategy

This strategy sets the direction of travel for the Criminal Justice System in Ireland for the future. It provides a shared vision and coherent approach to criminal justice overseen by a common governance framework. The strategy will be implemented in the context of and alignment with other national strategies and policies.

Community Safety Policy

The General Scheme of the Policing and Community Safety Bill contains a provision placing an obligation on Departments of State or other public service bodies in performing their functions to take account of the importance of supporting the delivery of community safety including through the prevention of crime and the prevention of harm to individuals in particular those who are vulnerable or at risk.

It places a specific obligation on Departments of State and public bodies to co-operate as appropriate with the Garda Síochána and each other in relation to community safety. This obligation therefore includes co-operation with the Department of Justice, the Irish Prison Service and the Probation Service where relevant, and may include the management of offenders and community safety and the prevention of crime.

The statutory obligation however is not the only matter that is relevant to this. Actions included in the proposed national Community Safety Strategy can also support interagency cooperation on matters relevant to offender reintegration.

Interagency working

Inter-agency and inter-Departmental working was a key theme emerging from the work of the PPRG Report in 2014. In particular, it is recognised that health and social issues, such as problems of drug addiction, mental health, poor education and homelessness significantly increase the risk of people being drawn into the criminal justice system and present as highly problematic for those leaving custody. These issues need to be addressed at an interagency level.

In that regard, the Interagency Group on Cooperation for a Fairer and Safer Ireland was established in 2016. Their ongoing work is focussed on two major themes; that crime is a question of social as well as penal policy, and that all Governments and agencies need to consider the question of crime prevention when formulating policy, with a resulting need to promote inter-agency cooperation in the management and rehabilitation of offenders.

The Interagency group has members representing a broad range of public services including An Garda Síochána, IPS, Probation Service, Housing and Homeless Services, D/Education, D/Health, HSE and the Central Statistics Office.

The Group has spent time analysing the nature of the problems faced by offenders when released from custody and how better interagency cooperation could assist in their reintegration into the community. Among issues focused on by the Group are the deficit of suitable accommodation, access to public services cards, provision of medical cards to

eligible prisoners, healthcare, access to services for released prisoners and the need for research to evaluate needs of released prisoners.

It is the aim of the Irish Prison Service that all releases from Irish prisons and places of detention are planned releases. This is to ensure the informed and effective transition of the offender from prison to the community in compliance with statutory, legal and sentencing provisions.

The Irish Prison Service and the Probation Service has made a commitment as part of Rebuilding Ireland to work in partnership with other state agents, to enhance inter-agency arrangements and to ensure that every reasonable effort is made to arrange for accommodation, welfare and health supports for prisoners prior to their release.

There is a Local Authority Protocol for single point of contact implemented by the Irish Prison Service to facilitate improved resettlement. There are several protocols in place with the Probation Service relating to post release supervisions and community return.

The Irish Prison Service, in conjunction with the Primary Care Reimbursement Scheme, HSE, have progressed access to the medical card scheme for all prisons. This supports sentenced prisoners to apply for medical cards prior to their release as a protective factor to ensure continuity of medical care support their stabilisation for reintegration into the community.

Many people under the supervision of the Probation Service have complex needs such as alcohol or drug problems, mental health challenges and homelessness. These offenders require a broad range of support and assistance in the community from a range of statutory services if they are to make better choices for themselves, their families and their communities.

While the work of the Interagency Group over the past four years has been instrumental in progress in the area of access to health and social services post-release for prisoners, more can be done. Indeed the WG group notes that the PPRG recommended a greater emphasis, if necessary through legislation, on promoting inter-agency co-operation in the management and rehabilitation of offenders. It is proposed that there is consideration of a more structured or formalised approach to promoting national and local co-operation in supporting the ongoing rehabilitation and reintegration of offenders in the interests of overall community safety.

Indeed, many of those interacting with the criminal justice system are already engaged with many state services and are, in effect, shared clients. In that context, there is merit in establishing systems to assist enhanced cooperation and collaboration across services, both Justice and non-Justice, in support of better outcomes.

Education and Employment

The majority of persons in custody (70.1%) on 31 December 2019 were early school leavers²⁹. 65.5% of women were early school leavers and 70.3% of men were early school leavers. For those in custody on 31 December 2019, the average age on leaving school was 13.9 years of age. Among this cohort, females left school slightly older than males.

Early school leavers are three times more likely to be unemployed as non-early school leavers. Indeed, the vast majority of persons in custody (80.4%) on 31st of December 2019 reported being 'unemployed' upon committal - 93% of women and 80% of men were unemployed upon committal.

According to CSO statistics, Junior Certificate or less is the highest education level attained by over 50% of the prison population. Further, the CSO found that in general only 10% of those in prison in 2016 were in substantial employment in 2019. In early 2019, the employment rate amongst this cohort was 11.7%, with the highest level of employment recorded being 15.8% in 2007, prior to the economic downturn.

The provision of education is an important prison-based service, which is key to improving outcomes for prisoners and reducing recidivism. It is delivered in partnership between the Prison Service and Education and Training Boards Ireland and focuses on providing quality assured, student centred education, which facilitates lifelong learning. The Department of Education and Skills stresses the role of non-accredited learning in enabling adults to return to the learning process at their own pace and in facilitating them to explore their full potential.

Poor literacy skills, a history of previous educational failure and/or negative educational experience often combine to create powerful barriers to engaging with education centres in prisons. Therefore, the curriculum offered must be broad, flexible and attractive enough to counteract any previous negative experiences.

The [Joint Irish Prison Service/Education & Training Boards Ireland Prison Education Strategy 2019-2022](#) details the strategic objectives for the prison education service and the high-level actions to be undertaken to deliver them over the period.

In addition, the 'Building Bridges' project is a joint national project being established which the Irish Prison Service and SOLAS, sponsored by the Department of Further and Higher Education, Research, Innovation and Science, lead. It seeks to build on the well-established infrastructure already in place between the Education and Training Boards and the Irish Prison Service to both expand and improve on outcomes for learners.

This project will be a strand of the national *FET Strategy 2020-2024; Transforming Learning Future FET*, within the themes of skills, inclusion and pathways. It will also take account of other relevant national policy and initiatives where complementarity exists.

Encouraging and supporting people with a criminal justice history who are experiencing socio-economic disadvantage to access education, is not just happening within prisons.

²⁹ Defined as those who leave the education system without a minimum of 5 passes in the Leaving Certificate or equivalent qualification (Combat Poverty Agency, 2001)

The Probation Service have collaborated with Maynooth University on a project called Unlocking Potential - the objective of which is to increase access to higher education for people with convictions. As part of this, the Probation Service announced a €100,000 Scholarship Fund as part of the Unlocking Potential launch in January 2022.

The IPS is also engaged with DCU to conduct an audit of literacy and numeracy across the prisoner population. While this was delayed due to Covid-19 restrictions within the prison estate, work is now underway to commence this, with a view to informing the future development of services and interventions in this area.

Health and Addiction

In the 2019 Drug and Alcohol Misuse among Adult Offenders on Probation Supervision in Ireland Study, 45% of females aged 25-34 years reported combined alcohol and drug misuse, a higher proportion than males in the same age cohort (35%). Addiction has been identified as a critical driver in female offending in Ireland.

Addiction is a significant health problem and driver in offending behaviour in general. It does require co-ordinated multi-agency co-operation and intervention to increase health and well-being and to reduce offending and related harm in the community. There is also a need to ensure access to healthcare services in the community for people leaving prisons, including a medical card, as well as access to GP services, drug and alcohol services, and mental health services.

As part of the Probation Service's commitments under the National Drug Strategy, *Reducing Harm/Supporting Recovery, (2017-2025)* the Probation Service identified a number of measures to support and develop probation practice in the area of substance misuse. This includes the on-going identification and delivery of evidence informed interventions and further up- skilling of staff, as well as promoting greater interagency co-operation to facilitate referral pathways. As part of this commitment, a research report: *Informing and Supporting Change: Drug and Alcohol Misuse among People on Probation Supervision in Ireland (Rooney, 2021)* was published in November 2021. The report makes a series of recommendations to enhance pathways and outcomes.

Homelessness

On 31st of December 2019, 9% (or 355) of all prisoners reported being of 'no fixed abode' upon committal. The proportion of female prisoners reporting 'no fixed abode' (15%, 27 persons) was considerably higher than the proportion of male prisoners (8.8%, 328 persons) reporting 'no fixed abode'³⁰.

³⁰ The figure being presented here does not provide a complete picture of self-reported homelessness among persons in custody on 31st December 2019. Some new committals are reporting their address as a homeless service and in some cases the address is not stated. This is important to bear in mind when interpreting these figures.

The Department of Justice through the Probation Service allocates €1,833,000.00 of funding to a range of community-based projects to address issues around homelessness.

In respect of measures to address homelessness and provision of accommodation to persons vulnerable to homelessness, these are the direct responsibility of the Department of Housing. In each of the past 5 years, an average of 450 prisoners were homeless at the point of committal to prison custody. Across 2019/2020, the IASIO prison-based Resettlement Coordinators assisted 725 prisoners who declared their risk of homelessness, to submit social housing application forms and liaised with local authorities in preparation for their release.

Between March and December 2020, despite the efforts of the Resettlement Service to arrange accommodation with local authorities prior to release, 225 prisoners were referred to present to the local authority for emergency accommodation arrangements on the date of release. In this same period, the resettlement service and the local authorities worked together to confirm an accommodation placement for 97 people prior to their release date. Failing to have a confirmed address prior to release makes it difficult to procure other support services to coincide with release.

The Probation Service and the IPS are committed to working with statutory and voluntary partners to advocate for, and to support, clients of the Service accessing appropriate accommodation. The Probation Service is also committed to ensuring that policy developments in the area of homeless provision take account of the needs of homeless offenders. The Probation Service funds the delivery of accommodation through PACE, DePaul (Ireland), the McVerry Trust and Focus Ireland.

The Irish Prison Service funds the provision of Resettlement Coordinators in all Irish prisons. These Resettlement Coordinators assist prisoners to engage with housing, social welfare and medical card authorities prior to their release in order to seek essential social supports necessary from other state agents to aid resettlement on release from prison custody.

The prison-based resettlement service has assisted offenders as follows in 2019/2020:

	2019	2020	Total
Housing Applications	368	357	725
Medical Card Applications	421	758	1,179
Social Welfare Applications	395	887	1,282
Post release employment/training	161	119	280

As part of this response, the Probation Service and Irish Prison Service, in partnership with housing and homeless services, are at an early stage of implementing a Housing First response for harder-to-reach offenders and ex-prisoners. Under the Housing (Miscellaneous Provisions) Act 2009, both the Probation Service and the Irish Prison Service are statutory members of Homeless Consultative Fora, which, through inter agency cooperation, is charged with the preparation and implementation of regional Homeless Action Plans. Additionally, the Probation Service funds a range of accommodation options for persons under supervision.

The Government's new strategic housing plan to 2030, *Housing for All – A New Housing Plan for Ireland*, was published on 2 September 2021. It commits to the continued expansion of Housing First, and includes the following text: *Housing for All recognises that prisoners and other persons convicted before the courts frequently present as homeless with high and complex support needs and that homelessness poses a significant risk for many post release. The updated National Implementation Plan will build upon the existing Dublin-based pilot scheme aimed at those from the criminal justice system by expanding the scheme nationally.*

A National Implementation Group oversees the implementation of the Housing First programme. A representative from the Criminal Justice Sector was appointed to the Group and attended their first meeting on 6 September.

An updated Housing First National Implementation Plan was published in December 2021 and expands upon the commitments referred to in Housing for All.

A recent initiative of good joint co-operation by the HSE and the Housing Agency is progressing under the National Housing Strategy for People with a Disability (NHSPWD) 2011 – 2016 reaffirmed and extended to 2020 in the Rebuilding Ireland.

This aims to give security of tenure to residents of HSE owned hostels and community residences. This is being achieved by transferring properties to the ownership of Approved Housing Bodies. Tenancy Support Officers (TSO) who are co-funded by the Department of Housing, Local Government and Heritage and the HSE but employed by the AHB support the residents in this transition. In addition to enhancing independent living for service users, this initiative frees up health care and housing professionals to focus on their respective expertise.

In her study 'Tracking the Needs and Service Provision for Women Ex-Prisoners'³¹, based on 16 in-depth interviews with women in the Dochas Centre, McHugh reported that services to tackle addiction was identified as the most basic and urgent need by the women interviewed. Homelessness has been a common feature for female prisoners on

³¹ Tracking the Needs and Service Provision for Women Ex-Prisoners' Rosemarie McHugh ACJRD 2013
https://www.acjrd.ie/files/Tracking_the_needs_and_service_provision_for_women_ex-prisoners_-_Final.pdf

release. In 2005, Seymour and Costello³² found that 50% of women prisoners had previously been homeless.

Notwithstanding the work undertaken between the IPS/Probation and local authorities, it is recognised that more needs to be done in the area of homelessness. When individuals are placed in custody, particularly females, it not only affects the woman herself but also on family and children. This can be disruptive to families often with long-lasting effects resulting in intergenerational offending. A parent who has a history of offending including committal to prison is a significant factor in Adverse Childhood Experiences.

Recommendations

It would be timely to repeat the 2005 study on the Number, Profile and Progression Routes of Homeless Persons before the Court and in Custody by Seymour and Costello as part of new accommodation and support planning for females in conflict with the law and to identify current issues, challenges and opportunities.

It is noted that accommodation on leaving prison is vital, as are appropriate mental health and addiction supports. It is recommended that the examples of international best practice jurisdictions highlighted in the report be considered further with a view to identifying options for enhanced step down facilities and the continuation of appropriate medical, social and familial supports post-release.

The WG proposes that the policy approach should be to maximise accommodation options through work with the Department of Housing/CCMA and Approved Housing Bodies with the consideration of joint commissioning of services, such as Housing First, to become a more focused strategy for harder to place/complex needs cases.

17 Action 12 – 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

The IPS Strategic Plan 2019-2022 is based on five strategic pillars : 1 Staff support; 2 Prisoner support; 3 Safe and secure custody; 4 Prison Estate: invest in a prison estate

³² Seymour, M. and Costello, L. (2005) [A Study of the Number, Profile and Progression Routes of Homeless Persons before the Court and in Custody](#). The Probation Service: Dublin

that provides safe, secure and humane custody, that upholds the dignity of all users and that reflects and supports a modern and progressive penal policy and 5. Governance

There were three main capital projects undertaken in 2019, in addition to a range of smaller projects, including the redevelopment of Limerick Prison, Castlerea Prison Equine Unit and Refurbishment of the Training Unit. The refurbishment of the Military Compound project was completed also during the year, having been significantly progressed during 2018.

The redevelopment of Limerick Prison includes the construction of a new prison facility for female prisoners. The design of the facility for female prisoners is based on the principle of rehabilitation and normalisation reflecting contemporary design standards. A mix of accommodation units is being provided comprising bedrooms units, some apartment style units, a mother and baby unit with the accommodation based around an external landscaped courtyard setting in keeping with the design principles on creating a safe therapeutic space and supportive regime. The female prison will provide accommodation for 50 female prisoners. There will be improved facilities for families visiting. In addition, there will be enhanced facilities to support rehabilitation and engagement with support services. The development is scheduled for completion in Q2 2022.

In addition, a number of smaller capital projects were undertaken in the years 2020/21, these include:

- Refurbishment of A2 landing at Castlerea Prison to include full upgrade and modernisation of the cellular accommodation.
- IT network installation. New cabling for in cell telephony. – Limerick Prison, Castlerea Prison, Midlands Prison in progress.
- Control room in Limerick Prison
- Refurbishment of two houses at Dóchas Centre,
- Midlands Prison, completion of the cell window replacement project,
- Provision of infection control cells across the prison estate,
- Refurbishment of the Training Unit,
- Sample cell under construction at E block Portlaoise Prison to explore engineering challenges relating to the provision of in-cell sanitation.

Notwithstanding the substantial progress and work continuing under the current IPS capital strategy, it is acknowledged that the development of the capital strategy for the Irish Prison Service beyond 2022 will require a comprehensive approach to ensure appropriate facilities are in place to meet future demands.

As mentioned in Section 2, there was a decrease in the number of people in custody in from 2019 to 2020. However, this may be an outlier when the steadily increasing numbers in the preceding five-year period is taken into consideration. The WG notes, in particular, the 2020 data reflects the effect of Covid-19 restrictions, which saw a significant scaling back of Court activities and subsequent committals to custody.

The WG also notes that there is one facility in the State dedicated to remand prisoners - Cloverhill Prison. This prison has a bed capacity of 431. In 2020, the daily average number of prisoners on trial/remand exceeded the bed capacity for trial/remand prisoners by 307 (71%). In order to accommodate the growing number of remand prisoners, as well as keeping them, where possible, close to their trial venue and/or their families, they must be “spread “across the estate.

The WG acknowledges there is a limit to what the current prison estate can accommodate. It is also acknowledged that if committal numbers continue to increase at the same rate as was seen up until March 2020, further large capital investment may need to be considered, if effective measures to provide stronger alternatives to imprisonment are not put in place. Such a development would have an impact on annual operational costs in addition to the large-scale capital investment that might be required.

The WG anticipates that the development of the Capital Strategy for the Irish Prison Service post 2022 will be informed by the policy considerations to address challenges such as the high incidence of remand prisoners, the complexity of the female prison population and the levels of offenders committed to prison for sentences of less than 12 months.

The WG proposes analysis of prosecution data for 2020 to establish the scale of cases that, ordinarily, would have been dealt with by the Courts and assessment of the projected impact on prison numbers in 2022 and beyond. In addition, analysis of projected population trends and demographics should be undertaken to establish the possible impact on the use of custody.

18 Action 13 – To review the Prison Rules 2007 in light of recent changes to the European Prison Rules

The Irish Prison Service operates within the parameters set out in Irish, European and international human rights law. The custody of sentenced persons and the Irish Prison Service operates within a statutory framework comprising the:

- Prisons Acts, including the Prisons Act 2007;
- relevant provisions in other statutes such as the Prisons (Visiting Committees) Act 1925, the Criminal Justice Act 1960, the Criminal Justice (Miscellaneous Provisions) Act 1997, the Criminal Justice Act 2007, other criminal justice acts and the Transfer of Sentenced Persons Acts, 1995 and 1997;
- Prison Rules, 2007, as amended;

- Irish Human Rights & Equality Act 2014 (section 42) and
- European Convention on Human Rights Act 2003.

For persons held on immigration related matters, the main legislative provisions are the Immigration Acts 1999, 2003 and 2004, their associated regulations, the Illegal Immigrants Trafficking Act 2000 and the International Protection Act 2015.

The Prison Service also takes due account of various international human rights treaties, declarations, standards and recommendations, including the:

- Universal Declaration of Human Rights;
- European Convention on Human Rights;
- United Nations Standard Minimum Rules for the Treatment of Prisoners;
- European Prison Rules 2006;
- United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- United Nations Covenant on Civil and Political Rights; and
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

The Prison Service also takes due account of the Reports and recommendations of the Inspector of Prisons.

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment established the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). This Committee inspects places of detention in the member countries of the Council of Europe and is fundamental in the prevention of torture. Furthermore, the Committee has published standards comprised in the main of substantive sections of the CPT's General Reports. The ECtHR has frequently looked to the Committee's standards and reports for factual guidance.

The Council of Europe has adopted non-binding instruments, which are in the form of Recommendations. These Recommendations, while not having the force of law, possess great persuasive authority as they were approved by the Committee of Ministers of the Council of Europe and are accepted as best practice in the treatment of prisoners and the management of prisons. The main Recommendation (Recommendation R (2006) 2 on the European Prison Rules) regarding the treatment of prisoners and conditions in prisons is the "Revised European Prison Rules", which contain fundamental standards that provide for a humane prison system.

These Rules inform policy developments in the Irish Prison Service and are of relevance to the remit of the statutory office of the Inspector of Prisons. Key recommendations are-

- Recommendation (82) 17 - concerning the custody and treatment of dangerous prisoners
- Recommendation (89) 12 - education in prison

- Recommendation (97) 12 - staff concerned with the implementation of sanctions and measures
- Recommendation (98) 7 - concerning the ethical and organisational aspects of healthcare in prisons
- Recommendation (99) 22 - concerning prison overcrowding and prison population inflation
- Recommendation (1469) 2000 - concerning mothers and babies in prison
- Recommendation (2003) 22 - concerning conditional release (parole)
- Recommendation (2003) 23 - management by prison administration of life sentence and other long-term prisoners
- Recommendation (2004) 10 - concerning the protection of the human rights and dignity of persons with mental disorder
- Recommendation (2006) - the (revised) European Prison Rules
- Recommendation (2008) - European Rules for juvenile offenders subject to sanctions or measures

In 2017, the Prison Rules 2007 were amended to take into account international best practice with particular reference to the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) in respect of the issue of solitary confinement.

The Committee of Ministers adopted the European Prison Rules on 1 July 2020. The purpose is to create a more comprehensive and logical structure and revise some of the rules, primarily the ones on solitary confinement, women, complaints, inspections and monitoring, foreign nationals, adequate staffing level, use of restraints and records and file management. Some changes can be expected in the Preamble in order to align them to the most recent judgments of the European Court of the Human Rights and the UN Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules). As a result the Irish Prison Rules will need to be updated and amended to reflect the revised European Prison Rules.

The Review of the Prison Rules is ongoing despite the challenges of managing Covid-19. The consultant working on this submitted a first draft to the Director General in 2021, with observations that were considered by the Irish Prison Service Directorates. There are a number of operational issues being factored into this draft and they are being finalised. A second draft was completed for further consideration in June 2022.

The Director General will review this draft and meet with the various Directorates to discuss the proposed amendments. The IPS also conducted a public consultation on the revised rules in August 2021. The outcome of the public consultation phase was considered and proposed amendments were factored into the second draft. Following a review of the second draft the Irish Prison Service intends to submit a Report to the Department in Q3 2022. The WG therefore has no further recommendations to make at this time except to welcome the impact the revision of the Prison Rules will have.

19 Action 14 – To review the existing functions, powers, appointment procedures and reporting processes for prison visiting committees

The Programme for Government commits to review the existing functions, powers, appointment procedures and reporting processes for prison visiting committees.

The main function of Prison Visiting Committees is to visit, at frequent intervals, the prison(s) to which they are appointed and to hear any complaints that may be made to them by any prisoner. Visiting Committees have free access, either collectively or individually, to every part of the prison. They focus on issues such as quality of accommodation, catering, medical, educational, welfare and recreation facilities.

The Minister for Justice appoints the members of the Visiting Committees under the provisions of the Prison (Visiting Committees) Act 1925. While the Rules relating to the specific functions and operation of such Committees are set out in Regulations, the Committees have no statutory powers that allows them to take action on behalf of prisoners other than to bring matters to the attention of the Governor and/or Minister.

A Cross Functional Team (CFT) comprising Criminal Justice Policy, Governance and Legislative Functions was established in September 2020. The CFT sought to establish how best to take forward the Programme for Government (PfG) Commitment

An initial review was conducted including key stakeholders' commentary and reform recommendations; international jurisdiction comparison; and international and European legislative requirements. This early review indicates that the PVC system be maintained but reformed.

The WG is aware that further consultation will be undertaken with various stakeholders including the Inspector of Prisons, PVC members, the Irish Penal Reform Trust (IPRT) and academics with relevant expertise and insights on any proposed changes. The WG has no therefore no further recommendations to make.

20 Action 15 – Post-implementation of the Parole Act 2019, examine the introduction of the Regulations necessary to determine eligibility for parole, including those serving long-term fixed sentences, under the new Statutory Board

The Minister for Justice established the new Parole Board in August 2021 on a statutory footing to take account of the concerns of victims and survivors

The Government has supported this commitment with funding allocated for the Parole Board for 2021 of €1.3 million, which is more than double previous allocations. This substantial increase will allow for the implementation of the model of parole as envisaged under the Parole Board Act.

The new statutory parole board will considerably improve the system as it currently operates. As mentioned, the Parole Act 2019 puts the parole board on an independent statutory footing and it sets out clear and transparent criteria for how the board will reach its decisions, which will be independent of the Minister of the day.

The Act also increases the length of the sentence that must be served by life sentenced prisoners before they are even eligible to be considered for parole, from 8 to 12 years.

It is worth noting that while under the current system prisoners sentenced to life imprisonment for murder are eligible to come before the Parole Board after 8 years imprisonment in reality, during the period 2011-2020 inclusive, the average sentence served before a life sentenced prisoner is released on parole was 19.65 years. In addition, there were 14 life sentence prisoners released to the supervision of the Probation Service in 2020. The average time spent in custody was 21.5 years.

Section 24 of the new Parole Act provides that, persons serving a fixed term sentence of imprisonment equivalent to or longer than such terms as are prescribed in Regulations made by the Minister under this Section shall be eligible for parole after serving such portion of the sentences as may be prescribed by the Minister in accordance with subsection (3) of Section 24.

In the interim, ahead of said Regulations being made, the IPS is dealing with persons on an administrative basis who would previously have been eligible for parole. Given that the Board has only been in situ since mid-2021, the WG accept that this is understandable but recommends that the policy base for the making of such Regulations now be examined with a view to the introduction of Regulations under Section 24 as soon as possible.

21 Action 16 – Ratify the Optional Protocol to the UN Convention Against Torture

Ireland ratified the UN Convention against Torture in 2002. The UN General Assembly agreed the Optional Protocol to the UN Convention against Torture (OPCAT) in 2002, introducing a combined system of national and international inspection of places of detention with a view to preventing ill-treatment. Ireland signed the OPCAT in October 2007.

Places of detention are not limited to prisons. OPCAT applies to any place where people are deprived of their liberty, including:

- The Central Mental Hospital and other Psychiatric units;
- Juvenile detention centres;
- Immigration detention centres;
- Garda stations.

The main obligation under OPCAT is to set up independent National Preventive Mechanisms (NPMs) to undertake regular visits to places of detention and formulate recommendations to the authorities.

The nature of the NPM to be established is not prescribed; rather the matter is at the discretion of each State having regard to its constitutional and legal requirements. Although the structure of NPMs is not set down by OPCAT, NPMs are to be independent, free from Government influence and allocated sufficient resources to carry out their role effectively.

As the majority of detained persons in the State are held within the Justice system, the Department of Justice is preparing the necessary legislation to enable ratification of OPCAT.

Strengthening effective oversight is crucial and the WG notes that the Minister for Justice is bringing proposals to Government for the Inspection of Places of Detention Bill. This will strengthen the current powers of the Inspector of Prisons and set out the path to facilitating Ireland's ratification of OPCAT.

The Bill will then be referred to the Office of the Parliamentary Counsel (OPC) for formal drafting. Subject to the consideration of the OPC and Office of the Attorney General, it is anticipated that the Bill may be published before the end of the year so that it may begin its passage through the Oireachtas to enactment.

The WG is aware of the challenging nature of the cross sectional, interdepartmental nature of the implementation of the provisions set out in the Optional Protocol, and no effort is being spared in working together towards the achievement of ratification as soon as possible.

The Bill envisages a single National Preventative Mechanism (NPM) for the Justice Sector to include Garda stations, courts, prisons, places of transport and transit between Garda stations, prisons and court. It proposed that a new Chief Inspector of Places of Detention be designated as the single NPM for the Justice Sector and that the new inspectorate body take over the functions of the IOP. The new inspectorate has a dual role, that of Inspector of Prisons and as NPM for the Justice Sector under OPCAT.

The WG recognised that additional financial and human resources will be required to ensure the new Inspectorate can perform its statutory functions effectively and support the credibility of the single NPM approach to include places of Garda custody.

The Bill currently provides that where the relevant Minister (e.g. Minister for Health, Minister for Defence etc.) considers it appropriate, they may designate a national preventive mechanism (NPM) from among existing inspection bodies for places of detention in their areas of responsibility.

The WG has no further recommendations to make.

22 Action 17 – Review the policy of holding immigration detainees in prisons

Following its visit to Ireland in September 2019, the Committee for the Prevention of Torture (CPT) identified a number of areas of progress since their last visit in 2014. However, in its preliminary report, the CPT recommended a review the policy of immigration detention. In the final report, the CPT called for the Irish authorities to put in place a specifically designed centre for immigration detainees, in accordance with its recommendations.

The publication of the CPT report plays an important oversight and evaluation role in developing and improving our penal system. The Department is fully committed to implementing the longer-term changes required to make our immigration and penal system safe, effective and responsive to the needs of persons detained for immigration related issues.

The WG notes that Action 135 in the Justice Plan for 2022 contains a commitment to review the policy of holding immigration detainees in prisons. The lead on this is the Department's Immigration Service Delivery Function and the WG is aware that a working group was established in Q2 2021 to take this work forward.

The WG recognised that there is unlikely to be quick fix solutions to some of the issues highlighted by the CPT. The transfer of resources to the Ukraine response in Q1 2022 impacted work on the Review. Consequently, the Review finalisation and development of an Action Plan are now expected to be completed in Q3 2022.

23 Action 18 – Implement a new Youth Justice Strategy emphasising prevention, early intervention and inter-agency collaboration

A new Youth Justice Strategy 2021-2027 was published on 15 April 2021. The Strategy was developed under the guidance of an expert Steering Group informed by detailed consultation with key agencies and community stakeholders, academic and practitioner experts, and by a public consultation process.

Governance arrangements for implementation of the Strategy have been established under the oversight of a cross-agency Youth Justice Governance and Strategy Group, chaired by the Department of Justice.

The issues which underlie youth offending are complex and solutions require coordinated efforts from State bodies and community partners, informed by clear evidence of effectiveness. To underpin this approach, the new Strategy provides for dedicated arrangements to support evidence-based development of programmes and monitoring the effectiveness of implementation on an ongoing basis. This approach will include consolidation and development of the existing research partnership model with the University of Limerick, "*Research Evidence into Policy Programmes and Practice*" (REPPP).

The Strategy is premised on the need to maximise opportunities to promote positive behavioural change and desistance from offending. It is intended to provide a framework for actions to:

- prevent offending behaviour occurring
- divert children and young adults who commit a crime away from further offending and involvement with the criminal justice system
- enhance criminal justice processes, detention and post-detention measures, to provide consistent support to encourage desistance from crime and promote positive personal development for young offenders.

There is a strong focus on those who are harder-to-reach and more vulnerable to early involvement in offending behaviour and development of entrenched patterns of offending. This includes the development of specialist project approaches, based on evaluated pilots, coupled with significant enhancement of the existing network of Youth Diversion Projects, (YDPs), where necessary encompassing early intervention and family support measures.

In addition, special initiatives including the Bail Supervision Scheme, Greentown Pilot Projects (for children controlled by criminal networks) and the Y-JARC approach (for supervision of prolific offenders) and Probation Service supervision will be prioritised with a view to providing a range of interventions and approaches which can be tailored to local circumstances.

The WG therefore has no further recommendations to make.

24 Action 19 – Introduce a diversion for young adults of 18-24 years old, for certain offences, building on the experience of the Youth Diversion Programme, the adult caution and the Health Diversion Programme in relation to possession of drugs for personal use

The WG notes that the Youth Justice Strategy 2021-2027 commits to developing a diversion approach for the 18-24 years age group, in line with a commitment in the Programme for Government, and as recommended by the Strategic Review of Penal Policy. This initiative is being led by the Department of Justice with the assistance of other relevant Departments, An Garda Síochána, the Probation Service, and community sector partners and is being progressed within the timeline of the Youth Justice Strategy.

Development of the work will be supported by appropriate expert advice, as required, to ensure a robust evidence-based approach to the design of a model for young adult diversion.

A discussion paper is being prepared to aid further consideration of the specifics – with a view to developing appropriate approaches for a young adult cohort in the community. A key issue will be to avoid any unintended consequences so a new approach will need to be developed cautiously, including with regard to how such an approach might be piloted in practice.

The community based supports that may need to be provided for some, but perhaps not all cases, should reflect the needs of this age group, rather than simply applying the youth service model provided for 12 to 17 years by Youth Diversion Projects (YDPs) funded by the Department of Justice. That said, there is scope for YDPs, or at least the community organisations that run them, to be centrally involved in working with this older age group. Equally, there is scope for other community based programmes to have a role and this is being further explored in discussions with other Departments and Agencies.

The approach for young adult diversion will also have to align with two other diversion approaches which are being developed under the leadership of the Department of Health (DoH). These relate to diversion for simple possession of drugs and diversion based on mental health issues. There is substantial commonality across all three initiatives, so the development of measures for the young adult cohort will need to be closely coordinated with the DoH-led diversion approaches.

The timeline for completion of this action is within the lifetime of the Youth Strategy 2021-2027, and it will be aligned with the overall development of diversion, crime prevention and community safety measures.

The WG therefore has no further recommendations to make.

25 Action 20 – Create the offence of grooming children to commit crimes

On 15 January 2021 the Minister for Justice and the Minister of State for Law Reform, James Browne, T.D., announced the publication of the General Scheme of the Criminal Justice (Exploitation of Children in the Commission of Offences) Bill, which will outlaw the grooming of children into crime.

The Bill will, for the first time, create specific offences where an adult compels, coerces, induces or invites a child to engage in criminal activity.

While current law already provides that an adult who causes or uses a child to commit a crime can generally be found guilty as the principal offender – meaning they can be punished as though they committed the crime themselves – it does not recognise the harm done to a child by drawing them into a world of criminality.

This new law is designed to address that harm directly. Those found guilty of the new offences face imprisonment of 12 months on summary conviction and up to five years on indictment. The child concerned does not have to be successful in carrying out the offence for the law to apply.

It is also the Ministers' intention that the offence of grooming a child into criminal activity will be prosecutable as a completely separate and additional offence to any crime committed by the adult using the child as their innocent agent. Details will be finalised throughout the legislative process.

The new legislation will complement the ongoing work following the publication of the “Greentown Report” in December 2016, which examined the influence of criminal networks on children in Ireland. The report, which was produced at the School of Law in the University of Limerick, outlines how the influence of criminal networks increases the level of offending by a small number of children and entraps them in offending situations.

The WG notes that as part of the wider “Greentown” project targeted interventions are to be piloted to further protect children in Ireland from becoming involved in criminal networks. As well as analysing how criminal networks recruit and control often-vulnerable children, the Greentown project has attempted to identify the scale of the problem in the State and has designed a bespoke form of intervention, which is being trialled on a pilot basis in two locations.

This work has been assisted by an international team of experts on crime and criminal networks, together with Irish scientific, policy and practice expertise in child protection and welfare, drugs and community development, strongly supported by key State agencies, particularly An Garda Síochána. The WG therefore has no further recommendations to make.

26 Action 21 – Extend the pilot schemes of the Joint Agency Response to Crime to more areas to target prolific repeat and vulnerable offenders aged 16-21

The Youth – Joint Agency Response to Crime Initiative (Y-JARC) is a multi-agency approach to manage and address the prolific offending and criminal behaviour of young people aged 16 to 21.

Two pilot projects were launched in July 2017 – one in Cork (Gurrabraher/Mayfield) and the other in Blanchardstown, Dublin 15. The programmes provide an operational approach for co-ordinated and enhanced levels of co-operation between An Garda Síochána, Probation Service, Irish Prison Service, Oberstown Children Detention Campus, and Tusla.

The Action Plan for the Joint Management of Offenders (2019-2021), published in December 2019 contains a commitment to conduct a formal evaluation of the two pilot Y-JARC initiatives and to *“Use the results of the evaluations to refine the JARC/YJARC programmes as required and to make evidence-based decisions on their future expansion to other locations”* by end 2021. The evaluation was carried out in 2021/2022 and the evaluation report will be finalised in Q3 2022. The report will be presented to the Youth Justice Governance and Strategy Group which oversees implementation of the Youth Justice Strategy.

Once the evaluation is finalised, it will be used to inform decisions around the future rollout of Y-JARC to additional locations. Y-JARC will be one of a number of approaches

developed under the Youth Justice Strategy to provide options for engaging effectively with prolific youth offenders, in the context of local area needs and circumstances. The WG therefore has no further recommendation to make.

