

Diversion for young adults ages 18-24 years

Initial Outline of Issues for consideration

Part 1 – Overview

1.1 Background

The argument for a particular approach to offending by young adults age 18-24 has been accepted for some time, notably in the Strategic Review of Penal Policy (2014)¹ which recommended that diversion measures for young adults should be developed. The ongoing implementation of the recommendations of the Strategic Review underlines a need for effective responses to offending behaviour in addition to imprisonment and other more traditional criminal justice responses.

1.2 Strategic Alignment

1.2.1 This discussion paper has been developed as part of work to implement the Youth Justice Strategy 2021-2027. The Strategy provides a developmental framework to address issues which underlie youth crime and to develop enhanced response by state bodies working with community partners. The Youth Justice Strategy includes the development of policies and programmes relevant to young adults in the 18-24 age group. This approach aligns logically with the scope of overall policies relating to young adults including "*Better Outcomes Brighter Futures – the National Policy Framework for Children and Young Adults*" (BOBF,) also extends to age 24.

1.2.2 The development of enhanced approaches for young adults will also complement the development of a broader Community Safety Strategy which will support the implementation of the recommendations of the Commission on the future of Policing in Ireland, (CoFPI) recommendations.

1.2.3 There will be a need for particular alignment with "*Reducing Harm, Supporting Recovery - A health-led response to drug and alcohol use in Ireland 2017-2025*", and the implementation of a Health Diversion approach in relation to drug possession offences.

1.2.4 A corresponding concern to address the situation of young adults is apparent in "*Sharing the Vision, A Mental Health Policy for Everyone*" with an ambition raise the age of transition from adolescent services to full adult services as far as age 25. Given

¹ Department of Justice: Strategic Review of Penal Policy (2014).
<http://www.justice.ie/en/JELR/Strategic%20Review%20of%20Penal%20Policy%20Accessible.pdf/Files/Strategic%20Review%20of%20Penal%20Policy%20Accessible.pdf>

the often significant correlation between mental health issues and offending behaviour there will have to be consideration of how mental health supports can be appropriately factored into the development of young adult diversion measures. More specifically a diversion approach in relation to mental health generally is already under examination by a sub-group of the High Level Task Force to consider the mental health and addiction challenges of persons who interact with criminal justice system. It will be essential to align the development of that initiative and young adult diversion proposals.

1.2.5 Restorative approaches are used as part of existing Youth Diversion systems and may have similar value in relation to young adults. These can range from approaches to engagement with those involved in offending to more formal restorative justice processes with the involvement of victims of crime. Therefore the development of Diversion approaches for young adults will contribute to achieving the Programme for Government Commitment to "... to build capacity to deliver restorative justice, safely and effectively".

1.3 Rationale

1.3.1 The general rationale for a specific approach in the criminal justice system was summarised in research carried out by the Irish Penal Reform Trust (IPRT) in 2015, from which stated:

The significant existing body of international research demonstrates that several factors place young adults more at risk of becoming involved in offending behaviour and make the prison system an inappropriate and counterproductive means of dealing with young adults. The scientific evidence shows that the human brain and maturity continue to develop beyond adolescence and into one's mid-twenties, leaving young adults with a lower capacity for self-regulation.²

1.3.2 The IPRT research further outlines that Young Adults, not unlike adolescents, can be particularly vulnerable to peer pressure, difficult personal or socioeconomic factors including substance misuse, and the impact of childhood trauma. In the context of a continuing process of maturing, interventions to promote positive behaviour change may have a greater prospect of success than in older adults. Appropriate

² IPRT: "Turnaround Youth" - <https://www.iprt.ie/youth-justice/turnaround-youth-young-adults-18-24-in-the-criminal-justice-system/>

responses suggested by the research included diversion, bail support, intensive community supervision and restorative practice.

1.3.3 The research highlighted connections to offending among young adults and socio-economic disadvantage and traumatic life experiences, (and which feature equally in relation to under 18's). Also highlighted were some UK initiatives which achieved much higher rates of desistance and positive behaviour change compared to conventional criminal sanctions. These included intensive community supervision, supervised bail and tailored community-based support. There are some similarities with existing initiatives in this jurisdiction including the Joint Agency Response to Crime (JARC), Bail Supervision Scheme (operating for under 18s) and approaches to hard-to-reach young people such as the Solas Rua Project in Dublin and Janus Justice in Limerick.

1.3.4 In addition, the research noted that special approaches for the 18-24 age group are employed in the justice systems of several jurisdictions. These include extending juvenile justice measures to young adults (Germany), special youth courts (Austria and Croatia), and significant adjustments in policy and practice in relation to sentencing and sanctions, (England and Wales, Lithuania, Netherlands, Czechia, Sweden, Switzerland and Victoria (Australia)).

1.4 Principles

1.4.1 If we can successfully divert people away from offending that means there will be less crime with less victims. So, a successful diversion system would support victim's rights and enhance community safety.

1.4.2 An effective diversion system will support positive behavioural change as well as continuing personal development of young adults.

1.4.3 The Youth Justice Strategy re-affirms the principle, already contained in the Children Act 2001, of using the deprivation of liberty as a sanction of last resort in responding to offending behaviour. The development of a diversion approach for the 18-24 age group should be viewed in that context as well as the need to observe other principles which underpin the Youth Justice Strategy, in particular:

- Respect for personal rights and integrity and as far as possible pursuing the best interest of the young person, with due regard to broader community interests

- Prioritising measures which are appropriate and proportionate to the situation of the young person and which involve as little inference as possible with legitimate activities.
- Victims of Crime should have an opportunity to have their voices heard and, where appropriate, to take part in restorative processes.
- The development of relevant programmes must be informed by the opinions of young adults, including those who have and who have not had contact with the criminal justice system. Therefore appropriate co-design methodologies should be considered for development of new diversion systems.
- Measures will be developed based on cross agency cooperation and partnership with community actors, supported by appropriate specialist inputs, including in relation to training of front-line personnel, and have a sound evidential basis. It is crucial to see young persons in the round, recognising that the each individual beyond their youth, may face specific rehabilitative challenges, including mental health and addiction issues.

1.5 Available Data

The following sections gives an indication of the trends in offending related to age. For comparison purposes the proportion of the general population attributable to the age cohort for youth diversion (12-18) and for the age 18-24 cohort as per Census 2016 is set out below.

| | Age 12-17 | % of Total | Age 18-24 | % of Total | Total |
|-------------------|-----------|------------|-----------|------------|-----------|
| Population 2016 % | 374,619 | 7.9% | 392,502 | 8.2% | 4,761,815 |

1.6 Crime Figures

These are based on 2016 comparisons with the CSO Census figures for that year. Crime data is derived from reports on the Garda Diversion Programme (all under 18s are referred for consideration for Diversion) and from AGS estimates for 18-24 years. These show the small proportion in each of the age cohorts who commit a crime as well as the very significant increase occurring in young adult years.

| Age | 12-17 and % of age cohort | 18-24 and % of cohort |
|---------------------------|---------------------------|-----------------------|
| Total in population | 374,619 | 392,502 |
| No. who committed a crime | 8,561 (2.3%) | 18,045* (4.6%) |

| | | |
|--------------------------------------|------------------|-----|
| No. people diverted (12-18) | 7,312 (2.0%) | N/A |
| No. unsuitable for diversion (12-18) | 1,249 (0.33%) | N/A |

* AGS Estimate

1.7 Re-offending

| Age Group | % Re-offending rate within 1 year |
|-----------|-----------------------------------|
| Under 18 | 45.6 |
| 18-24 | 36.0 |
| 25-44 | 28.8 |
| 45-64 | 21.1 |
| 65+ | 21.7 |

Probation Recidivism Statistics 2016³. These record re-offending within one year after being on Probation. The much higher recidivism rate for 12-18s reflects the fact that only those deemed unsuitable for diversion (about 13%⁴ of the total who commit an offence) will actually be processed through the Courts, from where they may be placed on Probation. Because of the availability of youth diversion those remaining in the system are likely to have more entrenched offending patterns. The recidivism rate for over 18s, indicates that a greater proportion may not re-offend, and therefore diversion could be a viable alternative to prosecution. However, that offending rate of those 18-24 is higher compared to older age groups.

While re-offending on Probation may be more relevant to consideration of diversion measures it is worth noting that re-offending after Prison is highest among the younger adult groups (particularly up to age 21). The latest statistics published by the CSO demonstrate this difference in particularly stark terms, with 83.6% of under 21-year olds reoffending with three years of release. By contrast 27% of over 50's re-offended within three years.⁵

1.8 Convictions

³ CSO Probation Re-offending Statistics 2016 - <https://www.cso.ie/en/releasesandpublications/ep/p-prs/probationre-offendingstatistics2016/2016results/>

⁴ Reports of Garda Diversion Programme Monitoring Committee.

⁵ CSO Prison Re-Offending Statistics 2011 – 2018 - <https://www.cso.ie/en/releasesandpublications/ep/p-pros/prisonre-offendingstatistics2011-2018/detailsof3-yearcustodialre-offending/>

Table 4 Persons convicted of relevant offences for crime incidents recorded in 2014 (Source CSO)⁶ - Note that Conviction in court is not usual for many offences under 18 where the majority of cases will be subject to diversion.

| Selected offences | Total Persons | Under 18* | 18-24 | 25-44 | 45+ | Unavailable |
|-------------------|---------------|-----------|-------|--------|-------|-------------|
| Theft | 8,008 | 472 | 2,102 | 4,709 | 717 | 8 |
| Drugs | 3,715 | 63 | 1,405 | 2,042 | 205 | - |
| Criminal Damage | 8,032 | 257 | 2,523 | 4,067 | 1,182 | 3 |
| Public Order | 24,461 | 99 | 5,518 | 12,685 | 3,609 | 2,550 |

This table is derived from a CSO analysis of 2014 data and it shows the very significant difference in the number of people whose cases are finalised in a court conviction between under 18s and 18-24s. Most under 18s will be processed via the Garda Diversion Programme. The offences selected are high volume ones, so the potential impact of diversion for 18-24s on Court and other criminal justice resources is apparent.

1.9 Imprisonment

IPS statistics show that the 18-24 age group amount to over 20% of the total number of those committed to prison annually,⁷ compared to 8.2% as a proportion of the general population.

Data from the snapshot of persons in prison custody on 30th June 2021 provides a profile of young adults in the prison system which indicates a background of socio-economic disadvantage and the development of significant ongoing patterns of offending.

On 30th June 2021, there were 3,891 persons in custody. Of those, 528 were aged between 18 and 24 years – 17 female, 511 male.

CSO Prison Re-offending Statistics 2011-2017 - <https://www.cso.ie/en/releasesandpublications/ep/p-pros/prisonre-offendingstatistics2011-2017/cs2010-2014/> <https://www.cso.ie/en/releasesandpublications/er/grcs/gardarecordedcrimestatistics2010-2014/>

⁷ IPS Annual Statistics - https://www.irishprisons.ie/wp-content/uploads/documents_pdf/AGE-AND-GENDER-Year-2007-to-2019.pdf

| | Female | Male | Overall |
|-------------------------------|--------|------|---------|
| Early School Leavers | 58.8 | 79.9 | 80.6 |
| Unemployed | 88.2 | 83.1 | 83 |
| Homeless (self-reported data) | 41.0 | 8.4 | 9.5 |

Offence Types

Three offence types accounted for **58.3%** of offences for the group of people (18-24 years) in custody, including both remands and committals:

- 28.2% 'Attempts/Threats to Murder, assaults, harassments & related offences'
- 19.7% 'Theft and related offences'
- 10.4% 'Burglary and related offences'

Sentence Length

Of the 528 people aged 18-24 years in custody, 405 of those were in custody under sentence. Of those under sentence –

- 18.3% had a sentence of less than 12 months
- 59.3% had a sentence of 1-5 years
- 23.5% had a sentence of more than 5 years

Repeat Imprisonment

Of the group aged 18-24 –

- 31.3% of persons aged 18-24 years, were in prison for the first time
- 68.7% had been in prison at least once previously
- 24% had been in prison five times or more.

1.10 General Comment

From the foregoing we can see that the volume of crime attributable to the 18-24 year age group is significantly higher than for under 18s. Therefore, the sort of supports

which the Department funds through GYDPs (community projects for under 18s) would not be easy to replicate for 18-24s. In any event it is unlikely that the same type of activity and social projects would be suitable for an older age group. Additionally it would not be possible to mix older and younger age groups for child protection reasons.

1.11 Types of offence and related interventions

A feature of the Garda Youth Diversion Programme is that many young offenders will desist after one or two Garda cautions. Approximately 15%⁸ are deemed unsuitable for diversion and may go on to have more problematic offending patterns, and much more intensive interventions are required to attempt to prevent that.

Garda analysis of 2016 data, provided to the Department, shows crime types associated with under 18s and 18-24s, with a jump in crimes like motoring offences, alcohol-related and drugs offences (including sale and supply). There is also an increase in some more serious offences for which diversion might not be appropriate. The large jump in the proportion of public order offences for 18-24s may suggest that the additional freedom (and income) which often coincides with young adulthood may underlie some offending in this group and that a comparatively “light touch” diversionary approach could be appropriate for some in this older age category. Note that in 2016 the 18-24 cohort represented 8.2% of the population.

| Offences 2016 | % attributed to 12-17yrs | % attributed to 18-24yrs | Total Crime incidents (incl over 24 yrs) |
|-------------------|--------------------------|--------------------------|------------------------------------------|
| Overall | 12% | 27% | 124604 |
| Public Order | 11% | 33% | 18908 |
| Theft from Shop | 19% | 20% | 17786 |
| Simple Possession | 7% | 47% | 11410 |
| Breach of Bail | 5% | 31% | 8903 |
| Drunkenness | 9% | 27% | 6409 |
| Criminal Damage | 29% | 29% | 5465 |
| Assault Minor | 18% | 23% | 5415 |
| Drink Driving | 1% | 18% | 5354 |
| Dangerous Driving | 6% | 31% | 4077 |
| Burglary | 21% | 30% | 3809 |

⁸ Average proportion 2015-2019 - Reports of the Garda Diversion Programme Monitoring Committee

| | | | |
|----------------------|-----|-----|------|
| Sale/Supply | 4% | 35% | 3770 |
| Theft (Other) | 12% | 26% | 3512 |
| Assault Causing Harm | 14% | 32% | 2233 |
| Trespass | 38% | 25% | 2211 |

Part 2 – Possible Approaches to Diversion (18-24)

2.1 Developing a young adult diversion approach.

Currently the Garda Diversion Programme operates in relation to ages 12-18, as provided in Part 4 of the Children Act 2001. This form of Youth Diversion involves two broad categories of action by Gardaí

- Issuing cautions
- Supervision in the community by a Garda Juvenile Liaison Officer

The Garda Diversion Programme may be supported by participation in a Garda Youth Diversion Project, (GYDP) delivered by a community-based organisation. **Further details on the Garda Diversion Programme and GYDPs are at Appendix 1**

2.2 Adult Caution Scheme

2.2.1 For young adults the cautioning aspect could be largely replicated by the existing Adult Caution Scheme. This is currently based on non-statutory arrangements between An Garda Síochána and the DPP. One of the broader issues to be considered is whether a caution scheme should be established on a statutory basis.

2.2.2 Garda statistics indicate that about 6,000 adult cautions annually. The existing scheme applies largely to public order type offences, including in relation to intoxication, as well as less serious criminal damage, theft and assault offences. The range of offences was extended in December 2020 to include certain offences relating to trespass, access to events, casual trading and simple possession of cannabis and cannabis resin.

2.2.3 The Adult Caution Scheme is simply a means of dealing with relatively minor offences without having to invoke the full criminal justice prosecution procedures. It is not designed to include detailed consideration of personal characteristics which may affect behaviour, although Gardaí will often assist with referral to other services. However, such personal issues or circumstances are central to the development of diversion measures, whether for young adults, or with regard to mental health or addiction issues.

2.2.4 Given the prominence of young adults in crime figures for these sorts of offences it is not surprising that indicative Garda figures show that in the region of 40% of adult cautions issue to 18-24s. The principal crime categories for which Adult

Cautions are issued are Theft, Public Order Offences, Assault and Criminal Damage, with a roughly 60/40 per cent male/female gender division.

2.3 ASBO Warnings

Gardaí are also empowered to issue anti-social behaviour (ASBO) warnings under the Criminal Justice Act 2006. In the region of 1,200⁹ ASBO warnings are issued annually.

Additionally Fixed Charge Penalties can be imposed for Public Order Offences and recent trends in this regard are outlines below. (*Source CSO*)

| Type of offence | Fixed Charge Notices and Fixed Penalty Notices | | | | |
|-----------------------|------------------------------------------------|-------|-------|-------|-------|
| | 2014 | 2015 | 2016 | 2017 | 2018 |
| Public order offences | 5,688 | 5,914 | 7,001 | 7,635 | 8,464 |

2.4 Use of existing warning or caution mechanisms in diversion

All of the above could, potentially be considered as elements in a diversion approach for 18-24s. It may well be that these already promote adherence to the law in cases where “light touch” enforcement may be all that is required. The fact that the Adult Caution Scheme is not, at this stage, bound by statutory requirements may give it a certain flexibility as an element in potential new approaches for young adults.

2.5 Other Developments and Issues

2.5.1 Work to develop a young adult diversion approach would have to align with the new Health Diversion Approach for drugs offences which is being piloted by the Department of Health. Pilots have not yet commenced but this Department maintains close contact with DoH in this regard. The Health Diversion approach includes a requirement for referral for health service information and support. (See 2 for more details).

2.5.2 In addition, the development of a broader Mental Health Diversion approach may provide insights to help ensure that initial contacts with Gardaí lead to an

⁹ Garda Annual Report 2018 – average figure 2016-2018.

appropriate form of diversion for the individuals concerned in tandem with relevant therapeutic or other personal supports.

2.5.3 In addition, work has been ongoing between An Garda Síochána and the ODPP to review the operation of the Adult Caution Scheme. The extension of the adult caution scheme in 2020 to include additional offences including simple possession for cannabis gives An Garda Síochána the option of diverting further appropriate cases away from the criminal justice system.

2.5.4 While Diversion systems act to avoid a court appearance, there may be some parallels with existing systems for court-ordered supervision of offenders in the community, in particular in relation to assistance which could be made available to a person make positive behavioural changes. The experience of the Probation Service in operating community supervision can provide important guidance in this regard.

2.5.5 Aligning with the Action Plan for the Joint Management of Offenders 2019-2021,¹⁰ any new systems will have to encompass the interests of victims and allow for appropriate expression of their views, including in the context of restorative or other collaborative approaches to support positive behaviour change.

2.5.6 Further examination of the existing crime data might also help reveal some of the underlying issues about young adult offending, e.g. are theft offences in some cases actually an indicator of addiction issues?

2.5.7 There may be scope for further research and cross-referencing with other work in relation to women in the criminal justice system and gender issues in the available responses.

2.5.8 There may be particular vulnerability for a proportion of young adults with regard to issues such as homelessness. CSO figures from 2016¹¹ indicate an approximate doubling in the number of homeless people on reaching adulthood compared to late teenage years.

2.5.9 Other vulnerabilities will have to be considered with a view to producing appropriate and effective responses for young adults:

- who have complex needs, including those who may be leaving State care, or have mental health or dual diagnosis

¹⁰ <http://www.justice.ie/en/JELR/action-plan-for-the-joint-management-of-offenders.pdf/Files/action-plan-for-the-joint-management-of-offenders.pdf>

¹¹ Census of Population 2016 – Profile 5 Homeless Persons in Ireland.
<https://www.cso.ie/en/releasesandpublications/ep/p-cp5hpi/cp5hpi/hpi/>

- who may be vulnerable due to their personal or family circumstances, which may not provide them with sufficient safeguarding or personal support.

2.5.10 In line with the Programme for Government, the Department of Justice is currently finalising a review of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 to broaden the range of convictions that are considered spent. This review has considered the specific rehabilitative needs of young persons.

2.6 Personal and Community Supports

2.6.1 While the cautioning element of the youth diversion approach could be mirrored through the existing provisions for adults outlined above, there does not appear to be an analogous provision which would provide personal development support in the community similar to GYDPs.

2.6.2 Clearly a different approach would be needed for adults and issues such as employment, education and training support might be included as well as other personal support needs. In addition to the Health Diversion pilots, learning from Probation Service Funded Projects, and Community Development Projects, funded via DRCD, as well as directly from community service providers, (especially in relation to mentoring and personal support), would assist in trying to design a suitable diversion support.

2.6.3 It may also be useful to consider a more individualised form of support or supervision in the community, with graduated levels of support or intervention depending on the circumstances of the individual involved. Issues such as access to educational or employment support, including internship or apprenticeships may need to be addressed according to the individual situation and needs of young adults.

2.6.4 Development of Diversion for young adults will also have to consider if there is a need for range of approaches perhaps broken into three broad categories of offenders, addressing the situation of those with:

- No previous offences recorded
- Previous minor sanction or caution
- More significant offending patterns with addiction, trauma or mental health dimensions

2.7 Costs

2.7.1 The cost of imprisoning one person is in the region of €68,000 annually.¹² The annual cost per participant in a GYDP is about €4,300.¹³ Obviously a young adult scheme would be different but it is apparent that there is scope for considerable cost savings in the medium to long term. The cost of community supports would be balanced once an adult diversion approach is up-and-running by a reduction in court costs and legal aid expenditure.

2.7.2 Nevertheless, the likely costs involved in a young adult Diversion scheme will have to be quantified as an integral part of the development process. It seems likely that there would be a need for sustained initial investment over a number of years to achieve a reduction in the requirement for DPP, court and prison resources as a result of adult diversion, but in the longer term there should be a significant savings.

2.8 Summary and Next Steps

2.8.1 It is envisaged that a Diversion approach for 18-24s could be developed to include elements such as the Adult Caution Scheme, combined, or linked to the offer of appropriate supports or programmes that would be engaged in on a voluntary basis. This would require appropriate supports and/or supervision, possibly delivered by community organisations funded by the Department.

2.8.2 This approach could align with the development of new community safety structures which are already being piloted in a number of locations as part of preparations for a broad Community Safety Strategy, flowing from the recommendations of the Commission on the Future of Policing in Ireland.

2.8.3 It will be essential that the further development of diversion measures with regard to Health (drugs offences), Mental Health and Young Adults (18-24) are properly aligned so that a coherent set of measures can be devised which will genuinely enhance the effectiveness of Garda and other frontline responses, and promote a reduction in offending behaviours. Similarly, the approach to new diversion measures will need to be consistent with any proposed revisions in relation to court-ordered community sanctions.

2.8.4 The Youth justice Strategy 2021-2027 commits to developing a diversion approach for 18-24 years, including initial scoping of the various options. This work

¹² Department of Justice figures provided to Public Accounts Committee 2019.

¹³ 3,704 participants in 2019 with a running cost of €15,826,683.86.

would logically be progressed by the Youth Justice Governance and Strategy Group which will oversee the implementation of the Youth Justice Strategy. It includes key Departments and Agencies and is linked to a stakeholder Advisory Group which can reflect NGOs and broader community perspectives into this work.

2.8.5 Preliminary discussions with An Garda Síochána have highlighted the need to proceed slowly and carefully to avoid unintended consequences. For example a general availability of diversion for young adults could have the effect of undermining the effect of FCN penalties for motoring offences. The intention would be to proceed in a limited manner by examining possible pilot approaches for certain categories of offence, based on Garda and DPP advice.

2.8.6 It will be essential to ensure that measures for diversion of young adults are focussed on effectiveness, so that alternative methods are clearly seen to produce a reduction in offending and less victims of crime. Therefore, development of the work would also be supported by expert academic advice, with appropriate evidence-based research included as part of the development process as required. It is envisaged that a pilot approach would be designed for implementation and the relevant costs could be assessed in more detail as part of this process.

Consultation Process

2.9.1 To further inform development of such an approach, this discussion document is being published to facilitate broader stakeholder and general public consultation.

2.9.2 In addition, it is intended that there will be more specific consultations with key stakeholders and representative bodies, particularly with regard to issues such as disability, mental health and addiction, as well as the views of crime victims.

2.9.3 As part of an appropriate development methodology, the views of young adults will need to be canvassed directly, in cooperation with relevant civil society bodies, to ensure that any new systems are informed by those who will be most directly affected.

2.9.4 It will also be important to involve service co-ordination and representation networks such as Children and Young Persons Services Committees (CYPSCs) and Local Community Development Committees (LCDCs) Child and Family Support Networks (CFSNs) and Regional and Local Drugs Task Forces (DTFs) as part of the design process.

Garda Diversion Programme and Garda Youth Diversion Projects (GYDPs)

Garda Diversion Programme

1. The Garda Diversion Programme operates in accordance with Part 4 of the Children Act 2001, as amended, and under the general superintendence and control of the Garda Commissioner.
2. The aim of the Diversion Programme is to deal with young people who offend, by way of administering an informal caution or a formal caution and with the option of supervision by a Garda Juvenile Liaison Officer (JLO). The broad intention is to divert the young offender away from the courts and minimise the likelihood of further offending. The Diversion Programme embraces the principles of restorative justice including with regard to the views of victims.
3. The Diversion Programme has proven to be successful in diverting young people under 18 away from crime by offering guidance and support to them and their families. The Diversion system operates under the guidance of the Programme Director, who is a Superintendent within the Garda Youth Diversion Bureau.
4. To be admitted to the programme a child or young person must:
 - be over the age of criminal responsibility (12 for most offences) and under 18 years of age,
 - accept responsibility for the offence(s) committed, and
 - consent to being cautioned and supervised.

If the child or young person is deemed suitable for admission to the programme then s/he is given either a formal (supervised) or an informal (unsupervised) caution. In certain circumstances the victim of the offence may be invited to attend the caution or the JLO may recommend that a family conference be held in relation to the child.

5. In general, informal cautions are, depending on the offence, a first caution. Although for relatively minor offences an informal caution may be appropriate for a further offence. Informal cautions are usually delivered in the young person's home with the parent(s) present by the JLO who will not be in uniform so as to maintain discretion from a family's point of view. An informal caution does not give rise to a period of supervision by the JLO.

6. Formal cautions are generally given for a repeat offence or a more serious offence and are usually delivered in the Garda Station by the JLO in uniform or a more senior officer, again depending on the nature of the offence. A formal caution is always linked to a period of supervision by the JLO. This may comprise one-to-one work with the JLO, a commitment to attend training or education or not to frequent certain places or mix with named peers. Supervision may also involve attendance at a Garda Youth Diversion Project.

7. A case is recorded as unsuitable if:

- the child or young person does not accept responsibility for the behaviour
- it is not considered to be in the interests of society implement the caution, or
- the child is offending persistently.

Cases deemed unsuitable for diversion are referred back to local Garda management who decide, following consultation with the Director of Public Prosecutions where appropriate, if a prosecution will be taken.

Garda Youth Diversion Projects (GYDPs)

8. GYDPs are a fundamental support to the operation of the statutory Garda Diversion Programme and provide a vital ingredient in enhancing community policing partnerships. These projects are community based multi-agency crime prevention initiatives which primarily seek to divert young people who have become involved in crime/anti-social behaviour. There are currently 105 of these projects in place nationally.

9. GYDPs aim to bring about the conditions whereby the behaviour of young people can develop and mature through positive interventions and interaction with

the project. They are primarily targeted at 12-17 year olds who may be at risk of involvement in offending, in communities where a specific need has been identified.

10. GYDPS are managed by not-for-profit Community Based Organisations, working in cooperation with local Gardaí, and are fully funded by the Department of Justice.

11. The Youth Justice Strategy 2021-2027 prioritises the further development of GYDPS including the provision of augmented services for young people, where necessary, relating to

- Early intervention (8-11 years)
- Family support
- Harder-to-engage young people
- Supporting schools

Health Diversion Approach

The Health Diversion Approach is being developed by the Department of Health following recommendations in the report of the Working Group to Consider Alternative Approaches to the Possession of Drugs for Personal Use.

There are two components to the Health Diversion Approach whereby a person in possession of drugs, determined by An Garda Síochána to be for personal use, on the first occasion would be referred by An Garda Síochána on a mandatory basis to the Health Service Executive for a health screening and brief intervention. On the second occasion, An Garda Síochána would have discretion to issue an Adult Caution.

Under the Health Diversion Approach, a person in possession of drugs for personal use would engage with the Health Service Executive to attend health screening and brief intervention (known as SAOR). The Health Service Executive will provide health professionals in all Community Healthcare Organisations to deliver this service for people referred by An Garda Síochána.

The adult caution scheme allows An Garda Síochána to issue a formal caution, instead of pursuing a prosecution, in relation to a number of specified offences. The extension of the adult caution scheme to include simple drug possession offences gives An Garda Síochána the option of diverting appropriate cases away from the criminal justice system.

Pilot Implementation.

The Health Diversion approach will be a piloted in a number areas. .

Scale of Health Diversion measures

DoH assumes that 12,589 people will be arrested for personal possession each year. Research and the Portuguese experience suggest that only 10% of these people will require further treatment for their substance use.

Assuming that all 10% attend treatment, that is 1,259 people extra requiring treatment per annum.

- 62% drug possession offences are for cannabis (usual treatment is counselling)

- 11% drug possession offences are for heroin (usual treatment is Opioid Substitution Treatment, although a small proportion may need residential detox)
- 12% drug possession offences are for ecstasy (usual treatment is counselling)
- 11% of drug possession offences are for cocaine (usual treatment is counselling)

Therefore, the impact on services will mostly be on outpatient counselling services. Around 140 extra people will require treatment for heroin addiction.