

RETHINKING DRUG POLICY

THE CASE FOR DECRIMINALISING

DRUGS FOR PERSONAL USE

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Executive Summary

Under the Misuse of Drugs Act 1977, the possession of a controlled drug for personal use is a criminal offence in Ireland, punishable by penalties up to and including imprisonment. The Act also confers on An Garda Síochána the power to stop and search individuals who - with reasonable cause - are suspected to be in possession of a controlled drug.

Comprehensive analysis from jurisdictions worldwide has demonstrated that a criminal justice approach to tackling problematic drug use, including the criminalisation of possession of drugs for personal use, compounds the harm caused by these drugs.

This report discusses why the current criminal justice approach in Ireland represents a failure of government policy and needs urgent reform. It argues in favour of decriminalisation of controlled substances for personal use as an essential component of a health-led approach to drug policy. It offers recommendations on repealing Section 3 of the Misuse of Drugs Act 1977 and other legal reforms that would help to embed an evidence-based approach to reform focused on health and harm reduction.

Methodology

This policy paper is based on an extensive literature review on global drug policy, in addition to drug policy and its impact in Ireland. An early draft of this paper was prepared by Olivia Marnell, with support from Emily Williams and Seán Egan BL. As part of its research, ICCL undertook a series of stakeholder interviews across government, civil society and Dublin-based health services in March and April 2025. These are referenced throughout.

The paper benefited from extensive comments from Senator Lynn Ruane, Dr Ian Marder (University of Maynooth), Dr Cian Ó Concubhair (University of Maynooth), Saoirse Brady (Irish Penal Reform Trust) and Eddie D'Arcy (Irish Coalition for Drug Reform) for which we are extremely grateful. Clare O'Connor (Irish Coalition for Drug Reform) provided additional support and advice.

This paper provides an accessible, evidence-based case for repealing Section 3 of the Misuse of Drugs Act 1977, drawing on Irish and international evidence to support this and related legal reforms.

Introduction

The use of controlled drugs is prevalent across all demographics and socio-economic groups in Ireland.¹ However, it is consistently people who come from the most deprived and marginalised backgrounds who face the brunt of the harms associated with drug use and current drug policy.² The current legislative scheme governing drugs use, the Misuse of Drugs Act 1977, criminalises outright the possession of drugs for personal use, punishable by a fine and/or a custodial sentence.

Since the introduction of the Misuse of Drugs Act 1977, much has changed in people's understanding of the drivers and impact of drug use, and the efficacy and impact of prohibitionist policies. Domestic³ and international⁴ analysis on criminal justice attempts to address personal drug use overwhelmingly concludes that criminalisation does not reduce drug use. It fails to account for the realities of addiction and the requirements for rehabilitation,⁵ while also neglecting the health and social needs of underserved and underrepresented groups. Indeed, as this paper describes, criminalisation creates a cycle of re-offending and compounding of trauma and stigmatisation of those who most need, but are least likely to access, rehabilitative help.⁶

The concept of a "health-led" approach to drug policy has been widely endorsed in recent years, including by the National Drugs Strategy 2017-2025,⁷ the Citizens' Assembly on Drugs Use,⁸ the Oireachtas Joint Committee on Drugs Use,⁹ the Programme for Government 2025¹⁰ and the Draft National Drugs Strategy 2026-

¹ Deirdre Mongan, [Drug Use in Ireland - Prevalence and Patterns of Use](#), presentation to Citizens' Assembly (15 April 2023).

² *Ibid.*

³ Marcus Keane and others, [Not Criminals: Underpinning a Health-Led Approach to Drug Use](#) (Anna Liffey Drug Project and London School of Economics and Political Science 2018), 18, 28, 32, 54; Caitlin Hughes and others, [Review of Approaches Taken in Ireland and In Other Jurisdictions to Simple Possession Drug Offences](#) (UNSW Australia and University of Kent 2018) 11-13; Centre for Justice Innovation, [Drug Use and Current Alternatives to Coercive Sanctions in Ireland: Mapping the Existing Alternatives to Coercive Sanctions for People Found in Possession of Controlled Drugs for Personal Use](#) (Centre for Justice Innovation, n.d) 4.

⁴ Global Commission on Drug Policy, [Beyond Punishment: From Criminal Justice Responses to Drug Policy Reform](#) (Global Commission on Drug Policy 2024) 33; UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng, [Drug use, harm reduction and the right to health](#)' (30 April 2024) A/HRC/56/52, paras 2, 31, 33.

⁵ Tlaleng Mofokeng (n 4), paras 31, 33.

⁶ *Ibid.*, paras 32, 33, 37.

⁷ Department of Health, [Reducing Harm, Supporting Recovery. A Health-Led Response to Drug and Alcohol Use in Ireland 2017 - 2025](#) (Department of Health 2017).

⁸ The Citizens' Assembly on Drugs Use, [Report of the Citizens' Assembly on Drugs Use Volume I Foreword. Executive Summary, Meetings Summary and Recommendations](#) (The Citizens' Assembly January 2024) 8.

⁹ Houses of the Oireachtas Joint Committee on Drugs Use, [Interim Report](#) (October 2024) 11, 16.

¹⁰ Government of Ireland, [Programme for Government 2025, Securing Ireland's Future](#) (January 2025) 91.

2029.¹¹ Yet, as a group of civil society organisations noted in 2019, Ireland’s Health Diversion Approach for people who use drugs¹² is “contradictory and lacking in logic”.¹³ Seven years later it is certainly hard to reconcile the intention behind a health-led response to drug policy and the reality of continued criminalisation of thousands of people who use drugs (see Table 1, p. 24) for what the State accepts is a health issue.¹⁴

The State’s drug policy is now at a critical juncture. The Joint Committee on Drugs Use is due to make a series of recommendations based on the Citizens’ Assembly on Drugs Use¹⁵ and the new National Drugs Strategy¹⁶ is being developed by the Department of Health.¹⁷ The Joint Committee on Drugs Use published its Interim Report in October 2024, which included a recommendation “that the decriminalisation of possession for personal use should apply equally to all illicit drugs”.¹⁸

This paper argues that the government has a unique opportunity in 2026, and indeed an obligation, to redirect national drug policy to comply with international best practice on health-led approaches and harm prevention. This entails decriminalising possession for personal use by repealing Section 3 of the Misuse of Drugs Act 1977.¹⁹ This would remove criminal penalties for possession of drugs, enabling the State to focus its finite resources on tackling the sale and supply of controlled drugs, in addition to investing in crucial health, treatment and social services as part of a health-led response.

¹¹ Department of Health, [Draft National Drugs Strategy 2026-29: An Integrated, Equitable and Evidence-based Response to Drug and Harmful Alcohol Use](#) (Department of Health, n.d).

¹² The Health Diversion Approach introduced alternatives to criminal prosecution for people found in possession for personal use. Department of Justice, Home Affairs and Migration, [‘Ministers Harris, Flanagan and Byrne announce health-led approach to the possession of drugs for personal use’](#) (accessed 30 April 2026).

¹³ CityWide Drugs Crisis Campaign, [An Open Letter to Taoiseach Leo Varadkar](#) (15 July 2019).

¹⁴ Ibid.

¹⁵ The Citizens’ Assembly on Drugs Use (n 8) 9-18.

¹⁶ This will replace the current strategy, Department of Health (n 7).

¹⁷ A draft of the [2026-2029 Strategy](#) was published in February 2026 and has been criticised by leading drug policy reform campaigners. For more information, please see Cormac O’Keeffe, [‘Groups Criticise Draft Strategy for Not Referring to Link between Drug Use and Poverty, Inequality’](#), *Irish Examiner* (Cork, 19 March 2026). A public consultation on the new Strategy took place from 26 February – 10 April 2026.

¹⁸ Houses of the Oireachtas Joint Committee on Drugs Use (n 9) 11.

¹⁹ See, for example, Pompidou Group of the Council of Europe, [Bringing Human Rights to the Heart of Drug and Addiction Policies: Guidance for Aligning Drug and Addiction Policies with Human Rights](#) (Council of Europe International Co-Operation Group on Drugs and Addictions 2024); Pompidou Group of the Council of Europe, [Human Rights in Drug Policy: A Self-Assessment Tool](#) (Council of Europe 2022); International Centre on Human Rights and Drug Policy and others, [International Guidelines on Human Rights and Drug Policy](#) (United Nations Development Programme 2019).

The first section of this paper describes the current drug use landscape in Ireland, including trends in drug use and treatment access, the associated harms inflicted on individuals and the public, and recent efforts to push for drug policy reforms. The second section discusses the limitations and failures of current drug policy. The third and final section makes a case for how and why Ireland should overhaul its drug policy to reduce harm by repealing Section 3 as part of an evidence-based response to drug harms.

As this paper shows, decriminalisation - meaning a repeal of Section 3 - is an essential component of a health-led approach. It is time to move beyond half-measures and compromises towards bold legislative reform to reduce drug harms.

Is decriminalisation of controlled drugs the same as legalisation?

No, it is not. **Decriminalisation** refers to the removal of criminal sanctions for possession of illicit or controlled drugs. All other offences (e.g., related to cultivation, manufacture, transportation, sale and supply) remain.

Legalisation generally refers to a controlled drug becoming legal under a regulated framework (e.g., in 2024 Germany legalised cannabis for recreational purposes,²⁰ in 2019 Ireland legalised the medical use of cannabis under strict conditions as part of a pilot Medical Cannabis Access Programme).²¹

This paper focuses on decriminalisation. It does not discuss or advocate for legalisation of controlled substances.

²⁰ Kate Connolly, '[Germany legalises possession of cannabis for personal use](#)', *The Guardian* (London, 23 February 2024 (accessed 01 May 2026)).

²¹ Department of Health, '[Medical Cannabis Access Programme launch enables compassionate access to cannabis for medical reasons](#)', accessed 01 May 2026.

1. Drug Harms in the Irish Context

Since regular household surveying was first rolled out in 2002, drug use in Ireland has increased in prevalence and complexity.²² The 2023 Healthy Ireland Survey found that 22.2% of survey participants aged 15 years and older reported use of an illegal drug at some point in their lifetime.²³ Cannabis, cocaine and ecstasy were found to be the most commonly used illicit drugs and males and young people were most likely to use them.²⁴ Some 13,000 individuals were accessing drug treatment in 2023, with the most prevalent problem drug being cocaine.²⁵ Indeed between 2017 and 2024, there was a “250% increase in cases receiving treatment for cocaine as their main problem drug”, particularly affecting women.²⁶ A 2022 study estimating the number of problematic opioid users found almost 20,000, mostly males aged 35-64, using opioids such as heroin, methadone, fentanyl and morphine.²⁷ In general, patterns of drug consumption differ according to age. A February 2026 meeting of the Joint Committee on Drugs Use was informed by Dr Eamon Keenan, national clinical lead for the Health Service Executive (HSE) addiction services, that:

“[f]or those under 19 years of age, cannabis is the main drug for those presenting with problems. For those between 19 and 44 years of age, cocaine is the main drug and for those over 45 years of age, it is opiates”.²⁸

Polydrug use and the use of sedatives is also common.²⁹

The most recent data available from the National Drugs-Related Death Index shows that 343 people in Ireland died from drug poisoning in 2022, with cocaine involved in one in three drug poisoning deaths.³⁰ As the Health Research Board National Drug Library notes, from 2013 to 2022, the number of cocaine poisoning deaths increased

²² The fifth general population survey on illicit drug use found the proportion of respondents aged 15–64 years who reported using any illicit drug in their lifetime had increased from almost 19% in 2002/03 to 27.1% in 2019/20. Drugnet Ireland, ‘[Drugnet Ireland Issue 79](#)’ (Health Research Board 2021) 4.

²³ Mongan D, Millar SR, Galvin B, [Findings from the Healthy Ireland Survey](#) (Health Research Board 2025) 7.

²⁴ *Ibid*, 6.

²⁵ Lynch, T, Condrón, I, Lyons S, and Carew A, [National Drug Treatment Reporting System, 2023 Drug Treatment Demand](#) (Health Research Board 2024) 3; Health Research Board, [Focal Point Ireland: National Report for 2024 – Treatment](#) (Health Research Board 2025) 5.

²⁶ Health Research Board, [Press Release: Cocaine main problem drug for 40% of cases receiving drug treatment](#), accessed 28 May 2025.

²⁷ Hanrahan MT, Millar SR, Phillips KP, Reed TE, Mongan D and Perry IJ, [Problematic Opioid Use in Ireland, 2015–2019](#) (Health Research Board 2022) 7, 10, 18.

²⁸ [Joint Committee on Drugs Use](#) Deb 26 February 2026, 29.

²⁹ Deirdre Mongan (n 1); Mongan D, Millar SR, Galvin B (n 23) 6.

³⁰ Health Research Board, [HRB National Drug Library: Deaths Data](#), accessed 18 March 2026.

by 259%, the largest increase of any drug group.³¹ Eight in 10 poisonings involved more than one drug, and alcohol was involved in one in five deaths, alongside other drugs.³²

Ireland's consumption of illicit drugs is comparatively high compared to other European countries, particularly of cocaine³³ and ecstasy.³⁴ Drug use and treatment is particularly concentrated in urban centres such as Dublin,³⁵ but the harmful effects of drug use do not touch every sector of society equally. While drug use itself is pervasive across all ages, genders and socioeconomic groups, its impact is greater in areas of deprivation.³⁶ At least 40% of the drug deaths reported in 2022 were people who were unemployed and more than one in 10 were experiencing homelessness.³⁷

Poverty is a major driver of drug dependency and also increases the likelihood of economically disadvantaged individuals becoming involved in the illegal market out of necessity. Research consistently reinforces the connection between the negative consequences of drug use and indicators of social disadvantage and exclusion, namely poverty, unemployment, homelessness and low educational attainment.³⁸ Despite this, bizarrely, the current draft of the National Drugs Strategy 2026-2029 does not make this link between poverty, inequality and drug-related harms.³⁹

Evidence show that different groups are affected by drug harms in different ways. At the global level, research shows that women are particularly vulnerable to coercive behaviours related to the illicit drug trade⁴⁰ and suffer particular health issues related to drug use.⁴¹ Sub-groups of women who use drugs may be affected based on their

³¹ [Ibid.](#)

³² [Ibid.](#)

³³ European Union Drugs Agency, ['Cocaine – The Current Situation in Europe \(European Drug Report 2025\)'](#), accessed 18 March 2026.

³⁴ European Union Drugs Agency, ['Prevalence of MDMA \('Ecstasy'\) Use in Europe, 2024 or Most Recent year'](#), accessed 18 March 2026.

³⁵ 13% of people in Dublin use drugs, 7% in the rest of Leinster, and 8% respectively in Munster and Connacht/Ulster. Deirdre Mongan (n 1); Health Research Board, [Alcohol and Drugs Data Factsheet: HSE Health Regions](#) (Health Research Board 2024) 4.

³⁶ Mongan D, Millar SR, and Galvin B, [The 2019-20 Irish National Drug and Alcohol Survey: Main Findings](#) (Health Research Board 2021), 89.

³⁷ Health Research Board, ['HRB National Drug Library: Deaths Data'](#), accessed 18 March 2026.

³⁸ Aileen O'Gorman and others, [Outcomes: Drug Harms, Policy Harms, Poverty and Inequality](#) (University of the West of Scotland 2016) 14; Global Commission on Drug Policy (n 4) 6.

³⁹ Department of Health (n 11).

⁴⁰ Global Commission on Drug Policy (n 4) 13.

⁴¹ United Nations Office on Drugs and Crime, [Women and Drugs: Drug Use, Drug Supply and Their Consequences](#) (United Nations Office on Drugs and Crime 2018) 20-23.

overlapping identities, for example, women who are pregnant and/or parents, women in prison, LGBTI+ women and women from migrant or minority ethnic backgrounds.⁴² Travellers in Ireland experience disproportionate drug-related harms,⁴³ particular barriers to seeking help and have poorer treatment outcomes compared with the general population.⁴⁴ Unemployment, overcrowding and poor living conditions are identified as contributing factors to their drug use⁴⁵, in addition to “systemic anti-Traveller racism and the stark inequalities” they face.⁴⁶ Adolescents can be adversely affected both by their own drug use and by grooming behaviours and low-level drug trafficking.⁴⁷

As the nature of drug use in Ireland continues to evolve and the harmful impact of illicit drug use on individuals, families, communities and wider society persists, there is an urgent need for a change in how Irish policymakers address the issue. The current punitive approach is underpinned by a history of deliberate stigmatisation and moral judgement toward people who use drugs and results in people being dehumanised and written off from society.⁴⁸ The approach has categorically failed to decrease the use of illicit drugs.⁴⁹ In fact, evidence shows that similar approaches serve to exacerbate the risks and harms associated with drug use and the illicit drug trade by leading to riskier practices in acquiring and using drugs (e.g., rushed injecting, sharing needles and injecting alone) and increasing the risk of drug-related sickness and death.⁵⁰

⁴² European Union Drugs Agency, [Women and Drugs: Health and Social Responses](#) (European Union Drugs Agency 2023) 3–6.

⁴³ Catherine Comiskey and Debra O’Neill, [Traveller Substance Abuse in Ireland: A National Study](#) (Pavee Point, Eastern Region Traveller Health Unit, Health Service Executive 2026).

⁴⁴ Ibid 4.

⁴⁵ Ibid 2.

⁴⁶ Ibid 8. Travellers are also disproportionately represented in the criminal justice system. Catherine Comiskey and Debra O’Neill, [Traveller Substance Abuse in Ireland: A National Study](#) (Pavee Point, Eastern Region Traveller Health Unit, Health Service Executive 2026) 18. The study (p 39) notes that “[i]n 2021 Travellers made up 10% of the adult prison population, and the percentage of all young people in Oberstown juvenile detention fluctuates, and at one point reaching 40% from January to September 2022 and on average sits at 22%”.

⁴⁷ Stakeholder interview, 18 March 2025. For more information, please see Clare O’Connor, [From Punishment to Prevention: Poverty, Inequality and Pathways into the Irish Criminal Justice System](#) (Irish Penal Reform Trust 2026) 37.

⁴⁸ Transform Drug Policy Foundation, [The War on Drugs: Promoting Stigma and Discrimination](#) (Transform Drug Policy Foundation n.d) 1–3; CityWide Drugs Crisis Campaign, [Submission to the Citizens’ Assembly on Drug Use](#) (June 2023) 2.

⁴⁹ Transform Drug Policy Foundation (n 441); Cian Ó Concubhair, [Submission to the Citizens’ Assembly on Drug Use](#) (June 2023) 2.

⁵⁰ Anne Line Bretteville-Jensen and others, [Costs and Unintended Consequences of Drug Control Policies](#) (Council of Europe 2017) 32–33.

Globally, the policy of criminalisation for possession of drugs for personal use has devastated the lives of many people and their families, while failing to address both the health and social problems associated with drug use and the root causes of addiction.⁵¹ In Ireland in recent years, civil society organisations, academics, politicians, health experts and members of the public have spoken out about the urgent need for policymakers to re-evaluate the effectiveness of Ireland’s drug policies, culminating in the Citizens’ Assembly on Drugs Use and the Oireachtas Joint Committee on Drugs Use’s wide-ranging recommendations on how to shift drug policy away from a criminal justice approach to a health-led, social justice and human rights-minded approach geared toward harm reduction.⁵² The recommendations embrace the need to implement health-led alternatives to addressing drug addiction through the criminal justice system.

Importantly, the National Drugs Strategy 2017-2025 *Reducing Harm, Supporting Recovery* explicitly identified drug use not as a criminal issue, but a health issue.⁵³ The new Draft National Drugs Strategy 2026-2029 does the same.⁵⁴ The Programme for Government 2025⁵⁵ states that the government “is committed to a health-led approach to drug addiction” and details a range of actions to implement this commitment.⁵⁶ Unfortunately, this does not include the key legal reform discussed in this paper, namely repealing Section 3 of the Misuse of Drugs Act 1977 to decriminalise possession for personal use.

⁵¹ Global Commission on Drug Policy (n 4) 6.

⁵² The Citizens’ Assembly on Drugs Use (n 8); Houses of the Oireachtas Joint Committee on Drugs Use, [Interim Report](#) (n 9) 11-17.

⁵³ Department of Health (n 7) 7.

⁵⁴ Department of Health (n 11) 4.

⁵⁵ Government of Ireland (n 10).

⁵⁶ These include publishing a successor strategy to the current one, diverting those found in possession of drugs for personal use to health services, increasing funding for addiction services, an awareness-raising campaign, exploring the use of mobilise medically supervised injection facilities and increasing the availability of Naloxone and providing training on its use.

2. The Failures of the Current Criminal Justice Approach

The current criminal justice-centred, prohibitionist model of tackling drug use in Ireland is anchored in the Misuse of Drugs Act 1977 and its associated amendments and regulations. The Act criminalises the cultivation, manufacture, transportation, sale or supply and possession of drugs, and establishes related offences and penalties under various schedules.

The offences of drug possession (Section 3) and possession for the purpose of sale and supply (Section 15) are the principal criminal charges used in the prosecution of drugs offences.⁵⁷ Persons found in possession are liable on summary conviction for a fine of up to €2,500, or a prison sentence of up to 12 months, or both.

Section 23 confers on An Garda Síochána the power to stop and search persons who they have “reasonable cause” to suspect may be in possession of a controlled drug.⁵⁸ Gardaí thus have wide, discretionary powers to stop and search people. Indeed in many countries, drugs policing drives national arrest, prosecution and incarceration rates, often for non-violent offences such as possession for personal use and low-level supply offences.⁵⁹ Suspected cannabis possession is the easiest ground for gardaí to use their stop and search powers as Garda evidence of smelling cannabis cannot be meaningfully challenged in court.⁶⁰

The former Garda Inspectorate documented how stop and search powers under the Misuse of Drugs Act 1977 are frequently used in the absence of other general search powers in Irish law.⁶¹ The Inspectorate detailed how even if no drugs are found, such searches are still recorded on An Garda Síochána’s PULSE system and classified as a search under the Act. This can lead to “inferences” being made about someone, based on previous searches under the Act. “Clearly, a person not found with any stolen property or drugs should not be stigmatised or otherwise disadvantaged in the future,” the Inspectorate has noted.⁶²

⁵⁷ [Misuse of Drugs Act 1977](#), s 3, 15.

⁵⁸ [Misuse of Drugs Act 1977](#), s 23.

⁵⁹ Global Commission on Drug Policy, [Advancing Drug Policy Reform: A New Approach to Decriminalization](#) (Global Commission on Drug Policy 2016) 17; Michael Shiner and others, [The Colour of Injustice: “Race”, Drugs and Law Enforcement in England and Wales](#) (Release 2018) 9.

⁶⁰ The UK College of Policing notes that “it is not good practice for an officer to base his or her grounds for search on a single factor, such as the smell of cannabis alone or an indication from a drugs dog”, urging police to focus on behavioural factors more than the smell of cannabis. For more information, please see College of Policing, [‘Legal Basis: Authorise Professional Practice’](#), accessed 15 April 2026.

⁶¹ Garda Síochána Inspectorate, [Crime Investigation](#) (Garda Síochána Inspectorate 2014) 25. This gap in Irish law is expected to be corrected in the Garda Síochána (Powers) Bill 2026.

⁶² *Ibid.*

In the Irish context there is very limited data available - the latest published data is from 2014 - on how gardaí use their discretion when exercising their search powers.⁶³ Data from the UK shows that drugs policing disproportionately impacts Black and Minority Ethnic groups and people living in areas of deprivation.⁶⁴ From 2023-2024, Black or Black British people were searched at a rate 3.7 times higher than those from a white ethnic group across England and Wales,⁶⁵ despite evidence that Black people are no more likely to commit drug offences than white people. These disparities continue into prosecution, where Black people are more likely to be arrested as a result of stop and search than white people, but less likely to be given an out of court disposal.⁶⁶

In Ireland evidence shows that foreign nationals are likely to receive longer sentences than Irish nationals for controlled drug offences and sexual offences.⁶⁷ In a 2024 study from ICCL and the Irish Network Against Racism (INAR), participants indicated a fear of being racially profiled by gardaí and noted that there is a lack of trust between gardaí and minorities, which also serves to discourage the reporting of racialised incidents to gardaí.⁶⁸ This lack of trust and tension between An Garda Síochána and minority ethnic communities is well documented.⁶⁹ Exacerbating matters, in the absence of disaggregated race data regarding policing in the Irish context, policing practices that may be biased or discriminatory have gone largely unscrutinised in Ireland as courts consistently defer to Garda discretion regarding their search powers.⁷⁰

A lack of trust within communities that are particularly affected by drug harms can lead to isolation, due to perceptions of high levels of drug-related violence, crime

⁶³ Cian Ó Concubhair (n 49) 4.

⁶⁴ Niamh Eastwood and others, [The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales](#) (Release 2013) 18-26.

⁶⁵ Home Office, ['Police Powers and Procedures: Stop and Search, Arrests and Mental Health Detentions, English and Wales, Year Ending 31 March 2024'](#), accessed 18 March 2026.

⁶⁶ Shiner and others (n 59) 35.

⁶⁷ David M Doyle and others, ["Sometimes I'm Missing the Words": The Rights, Needs and Experiences of Foreign National and Minority Ethnic Groups in the Irish Penal System](#) (Irish Penal Reform Trust 2022) 30.

⁶⁸ The Irish Network against Racism and the Irish Council for Civil Liberties, [Policing and Racial Discrimination, in Ireland. A Community and Rights Perspective](#) (Irish Network against Racism 2024) 14-16.

⁶⁹ Ian D Marder and Katharina Kurz, ['Can Dialogue Help Police Officers and Young Black Adults Understand Each Other? Key Findings from a Restorative Process'](#) (2024) 34 *Policing and Society* 449; Lucy Michael and others, [Experiences of Policing amongst Brazilians and People of African Descent in Ireland](#) (Irish Network Against Racism 2025).

⁷⁰ Cian Ó Concubhair (n 49) 22; Stakeholder interview, 6 March 2025.

and intimidation, coupled with a lack of confidence in An Garda Síochána's ability to effectively police certain areas.⁷¹ This erodes trust as part of a phenomenon of over-policing and under-policing at the same time.⁷² Working-class men are routinely targeted for police searches, again lowering trust in law enforcement.⁷³

The impact of a criminal record can be long-lasting, acting as a life-long barrier to many aspects of reintegration. As the United Nations Human Rights Council has noted:

“Being charged with a drug-related offence is a stigma that can last a lifetime, creating impediments to employment, education, travel, immigration, custody of children, privacy and freedom from discrimination, as well as to the enjoyment of civil and political rights such as the right to vote and the rights to participation, freedom of association and peaceful assembly and freedom of opinion, expression and information.”⁷⁴

Research on the impact in Ireland has noted the restrictions on employment opportunities⁷⁵ and higher education,⁷⁶ leading to cycles of poverty. Access to housing is also affected. Section 15(2) of the Housing (Miscellaneous Provisions) Act 1997 allows local authorities to subject prospective or existing tenants they believe are engaged in “antisocial behaviour” (including related to drugs)⁷⁷ to Garda vetting. Even low-level convictions make it extremely challenging to obtain insurance, including car insurance.⁷⁸ A criminal record can also lead to exclusion from many aspects of community participation.

⁷¹ Marcus Keane and Sarahjane McCreery, *Debts, Threats, Distress and Hope: Towards Understanding Drug-Related Intimidation in Dublin's North East Inner City* (Ana Liffey Drug Project 2021) 63-64.

⁷² [Joint Committee on Drugs Use](#) Deb 16 April 2026 23.

⁷³ *Ibid.*

⁷⁴ UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng (n 4), para 36.

⁷⁵ Joe Garrihy and Ciara Bracken-Roche, *The Secondary Punishment: A Scoping Study on Employer Attitudes to Hiring People with Criminal Convictions* (Irish Penal Reform Trust 2024) 10.

⁷⁶ Joe Garrihy and Ciara Bracken-Roche, *Boxed Out: Higher Education, Criminal Convictions, and Perceptions of Risk* (Maynooth University 2023).

⁷⁷ Section 1 of the Act defines anti-social behaviour as including the “manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug”.

⁷⁸ One stakeholder with direct experience was aware of only two underwriters in Ireland that provide car insurance to people with criminal convictions. See also Joe Garrihy and Ciara Bracken-Roche, *The Secondary Punishment: A Scoping Study on Employer Attitudes to Hiring People with Criminal Convictions* (Irish Penal Reform Trust 2024) 19.

Under the current scheme, sentencing for second or subsequent offences is enhanced, ostensibly to reduce repeat offending, with increased fines and longer imprisonment terms for second and subsequent convictions. But such penalty schemes have been shown to lead to a vicious cycle of re-offending and compounding of trauma. Many studies demonstrate the link between imprisonment and recidivism and the failure of imprisonment to meet its purported objective of reintegration.⁷⁹ For example, a recent 10-country study documented that “the overwhelming evidence is that imprisonment achieves little” in terms of reducing repeat offending, “beyond a temporary incapacitative effect”.⁸⁰

In Ireland, recidivism rates are high. More than half of people (57%) who were released from custodial sentences in 2019 were convicted of re-offending within three years of being released.⁸¹ In 2024, three-fifths (61%) of crime incidents recorded in the PULSE system involved suspected offenders who had a link to at least one previous crime incident.⁸² People who use drugs and are homeless are likely to have more interactions with gardaí and to be caught multiple times in possession, leading them into the carceral system for repeated short-term sentences.⁸³ Meanwhile most drug use in the home goes undetected by the State⁸⁴ – it is much easier to avoid detection for possession for people who are housed, employed and come from stable communities.⁸⁵

Irish prisons are plagued by overcrowding due to the high volume of minor offences being prosecuted,⁸⁶ including drug offences. Chronic overcrowding in prisons has led to what the European Committee for the Prevention of Torture And Inhuman or

⁷⁹ Global Commission on Drug Policy (n 4) 16.

⁸⁰ Catherine Heard and Jessica Jacobson, *Sentencing Burglary, Drug Importation and Murder: Evidence from Ten Countries* (Institute for Crime and Justice Policy Research 2021) 17.

⁸¹ Central Statistics Office, *Prison Re-offending Statistics 2022*, accessed 06 May 2026.

⁸² Central Statistics Office, *Re-offending by Detected Incidents 2024*, accessed 06 May 2026.

⁸³ Stakeholder interview, 18 March 2025.

⁸⁴ Marcus Keane, *The government's new drug policy will do nothing to end the stigmatisation of drug users*, 07 August 2019, accessed 04 May 2026.

⁸⁵ Emmet Malone, *Most drug users are functioning people. They go to work, go to college*, *The Irish Times* (Dublin, 11 November 2024).

⁸⁶ The latest available data shows that a total of 77% of sentence committals were for 12 months or less. Irish Prison Service, *Annual Report 2024* (IPS 2024) 61.

Degrading Treatment or Punishment has described as “severe consequences”,⁸⁷ including “cramped and squalid spaces with insufficient ventilation.”⁸⁸ Long waiting times for addiction treatment services are common. In July 2025, more than 900 people in custody were on the waiting list for addiction counsellors.⁸⁹ Many people in prison – particularly those serving short sentences – thus have little to no prospect of receiving treatment, have frequently not been rehabilitated upon release, and have no set referral pipeline to care or community-based support systems when they leave prison, frequently leading to re-offending and reintroduction to the carceral system.⁹⁰ Notably, the Irish Prison Service’s strategic plan 2023-26 focuses more on security (detection and prevention of smuggling) than achieving a health-led approach to drug use.⁹¹ This has led the Irish Penal Reform Trust (IPRT) to recommend that:

“[g]reater emphasis is placed on a health-based approach to drug use in practice, including providing timely and effective supports, education, and meaningful activities that can reduce drug dependency”.⁹²

In summary, the current model has been shown to *not* reduce drug use, and in fact has led to an increased policing and criminal justice burden in recent years. The punitive model fails to account for the realities of drug use, namely that the individuals most likely to be caught multiple times in possession of drugs are those struggling with drug use and likely to be facing other serious challenges that drive them to drug dependency such as mental illness, poverty, homelessness and other forms of social discrimination and ostracism.⁹³ In effect the prohibitionist model is not just criminalising drug use but serves to criminalise addiction itself.⁹⁴

⁸⁷ European Committee for the Prevention of Torture And Inhuman or Degrading Treatment or Punishment (CPT), Report to the Irish Government on the Visit to Ireland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21-31 May 2024, CPT/Inf (2025) 22 (Council of Europe 2025) 5.

⁸⁸ Ibid.

⁸⁹ Eoin Glackin, [‘More than 900 People Are on Waitlists for Addiction Supports in Ireland’s Prisons’](#), *Dublin Inquirer* (Dublin, 5 September 2025).

⁹⁰ Clare O’Connor, [From Punishment to Prevention: Poverty, Inequality and Pathways into the Irish Criminal Justice System](#) (Irish Penal Reform Trust 2026) 47, 71.

⁹¹ Irish Prison Service, [Irish Prison Service Drugs Strategy 2023-2026](#) (IPS, 2023) 1.

⁹² Irish Penal Reform Trust, [Progress in the System \(PIPS\): A Framework for Penal Reform](#) (Irish Penal Reform Trust, 2024) 94.

⁹³ Global Commission on Drug Policy (n 4) 6.

⁹⁴ Stakeholder interview, 02 April 2025.

The Health Diversion Approach

Pursuant to the 2019 Report of the Working Group to Consider Alternative Approaches to the Possession of Drugs for Personal Use,⁹⁵ the Irish government is set to roll out a health diversion scheme for people in possession of drugs for personal use. The scheme follows the original Health Diversion Approach rolled out in 2019.⁹⁶ At its launch, then Minister for Health Simon Harris commented:

“For a country who likes to consider itself progressive, tolerant and inclusive, the way we have treated people with drug addiction through the criminal justice system was regressive and belongs in a different era. The idea that the first point of contact that anyone in this situation has is the justice rather than the health system was frustrating and quite frankly embarrassing.”⁹⁷

Indications are, however, that under the new diversion scheme drug possession will still be criminalised, that gardaí will continue to act as de facto gatekeepers for health referrals and that individuals will still be able to be searched for possession.

Based on the available information, action taken by An Garda Síochána will depend on the number of times the individual has been caught in possession. The first occasion will be dealt with on an administrative basis as part of a one-strike diversion scheme for all drug types.⁹⁸ People will have to acknowledge what the substance is and will then be referred on an automatic and blanket basis – for all drug types – to the HSE for a health screening and intervention [a Support, Ask and Assess, Offer Assistance, Refer (SAOR) assessment].⁹⁹ A record of the engagement will be kept but there will be no further engagement from An Garda Síochána.¹⁰⁰ Details of what may happen on subsequent occasions and related discretionary diversion options have

⁹⁵ Garrett Sheehan, [Report of the Working Group to Consider Alternative Approaches to the Possession of Drugs for Personal Use](#) (Department of Health 2019).

⁹⁶ Operational details of the scheme are still being finalised by An Garda Síochána and the timeline for its completion is unclear. [Joint Committee on Drugs Use](#) Deb 26 February 2026, 8.

⁹⁷ Simon Harris, [‘Speech by Minister Harris launch of health diversion approach for drug use’](#) 2 August 2019 (accessed 04 May 2026).

⁹⁸ [Joint Committee on Drugs Use](#) Deb 26 February 2026, 8.

⁹⁹ Support, Ask and Assess, Offer Assistance, Refer: a screening and brief intervention structured model for professionals to have a conversation with a person with problematic drug or alcohol use, and assist them to alter their consumption if deemed necessary. For more information please see HSE, [‘SAOR© Screening and Brief Intervention for Alcohol and Substance Use Training’](#), accessed 19 March 2026 and [Joint Committee on Drugs Use](#) Deb 26 February 2026, 8.

¹⁰⁰ [Joint Committee on Drugs Use](#) Deb 26 February 2026, 8.

yet to be released. Advocates of reform are wondering why, if it is possible to have an administrative sanction in the first instance, it has to be escalated to a criminal justice response on subsequent occasions.¹⁰¹ In a recent debate, Senator Lynn Ruane lamented:

“The citizens' assembly did not recommend what is being offered here. It is wrong for us to keep portraying it as a health-led response when it is still a criminal response.”¹⁰²

Diversion schemes have been shown to reduce recidivism, but they still risk some harmful effects and rights violations.¹⁰³ Diversion methods, adult cautioning schemes¹⁰⁴ and similar health interventions necessitate certain levels of interaction with the criminal justice system and risk those same stigmatised people and over-policed communities being repeatedly found in possession, with the threat of prosecution repeatedly hanging over them. Looking ahead, there is a particular risk of inconsistent application of the new scheme by An Garda Síochána if Section 3 of the Misuse of Drugs Act 1977 is retained – what is to stop them from charging people for possession if the legal option is there?¹⁰⁵ The issue of limiting the number of times a health referral can be made has also been highlighted by Ana Liffey: “[I]f drug use is a health issue the first time, it is a health issue the hundredth time.”¹⁰⁶

A further issue is that health referrals that require consent but are de facto mandatory to avoid prosecution are arguably violations of the rights to health and privacy under international law since individuals have a right to make informed decisions about their own healthcare. In the case of the large overlap of individuals with dually diagnosed mental or psychosocial disabilities, they also represent a violation of the right to equal recognition before the law as legal persons fully and equally capable of making their own healthcare decisions (see Box entitled *The Right to Health*, p. 17).¹⁰⁷

¹⁰¹ Ibid 9.

¹⁰² Ibid. The Citizens' Assembly recommended a health-led response to possession for personal use including decriminalisation but left it up to the Oireachtas to decide how to implement this.

¹⁰³ Global Commission on Drug Policy (n 4) 31; Stakeholder interview, 27 March 2025.

¹⁰⁴ The Adult Cautioning Scheme is a discretionary alternative to prosecution, where prosecution is not considered to be in the public interest. For more information, please see Citizens Information, [‘Adult Cautioning Scheme’](#), accessed 18 March 2026.

¹⁰⁵ Cian Ó Concubhair, [‘Opening Statement’](#) (Joint Committee on Drugs Use, 13 April 2026).

¹⁰⁶ Marcus Keane (n 84).

¹⁰⁷ [UN Convention on the Rights of Persons with Disabilities](#) (CRPD), article 12; UN Committee on the Rights of Persons with Disabilities, [‘General comment No. 1 \(2014\): Article 12: Equal recognition before the law’](#), (19 May 2014) CRPD/C/GC/1.

The United Nations condemns the use of such compulsory treatment as a violation of human rights and due to its ineffectiveness.¹⁰⁸ The UN Working Group on Arbitrary Detention has highlighted that drug treatment must be voluntary and based on informed consent.¹⁰⁹ Public health research finds that “no form of coerced treatment [...] is any more effective than voluntary treatment in the community”.¹¹⁰ The threat of imprisonment should not be used to de facto coerce individuals into treatment without their consent.

The Right to Health

The right to health is underpinned by the right to make choices about one’s own health.

The right is provided for in several international human rights instruments, including Article 12 of the International Convention on Economic, Social and Cultural Rights (ICESCR) (ratified by Ireland in 1989) which enshrines the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.¹¹¹ Signatories are obliged to implement the right to health of their citizens on a non-discriminatory basis.¹¹² Every person is entitled to access timely and appropriate healthcare and health facilities that are available, accessible, acceptable and of quality.

The Public Sector Equality and Human Rights Duty, found under Section 42 of the Irish Human Rights and Equality Commission Act 2014, applies to all public bodies, including the HSE. In other words, the HSE has a legal obligation to have regard to and protect the human rights of individuals who use their services and promote equality of treatment to individuals and communities, particularly those at risk of inequality and discrimination, including people who use drugs.

In practice, criminalisation of people who use drugs presents a barrier for people who need to access services and ongoing treatment because it frames people who

¹⁰⁸ Global Commission on Drug Policy (n 4) 17.

¹⁰⁹ Working Group on Arbitrary Detention, [‘Arbitrary Detention Relating to Drug Policies’](#), (18 May 2021) A/HRC/47/40, para 83.

¹¹⁰ Rick Lines and others, “Treatment in Liberty’ Human Rights and Compulsory Detention for Drug Use’ (2022) (22) Human Rights Law Review, 11.

¹¹¹ [International Convention on Economic, Social and Cultural Rights](#), art 12.

¹¹² [International Convention on Economic, Social and Cultural Rights](#), arts 2(2), 12; UN Committee on Economic, Cultural and Social Rights, [‘General Comment No. 14: The Right to the Highest Attainable Standard of Health \(Art.12\)’](#), (11 August 2000), paras 12(b), 18.

use drugs as deserving of punishment first and foremost.¹¹³ It creates barriers to seeking support because people may be unable or unwilling to access requisite healthcare support out of shame or fear of punishment and (re)introduction into the carceral system.¹¹⁴ This can especially impact women in relation to their care-giving roles. Traveller women are identified as experiencing particular fear of their children being taken into care when accessing treatment services.¹¹⁵

People who are deterred from seeking services are left to suffer the considerable health problems associated with drug use, including street drug use and unsafe consumption practices. In England, for example, one study has shown that around half of people who die of opioid-related deaths have had no contact with treatment services for more than five years.¹¹⁶ Similarly, substance abuse and related behaviours can lead to effective exclusion from health services that are not dedicated to people affected by drug use (such as the Ana Liffey project in Dublin).

Evidence shows that the failure to implement a comprehensive and integrated health-led plan involving harm reduction methods leads to a host of related health problems including unchecked transmission of HIV,¹¹⁷ overdoses¹¹⁸ and drug deaths.¹¹⁹ Women face unique health challenges, such as stigmatisation of drug use when seeking health services,¹²⁰ higher rates and increased risks of HIV transmission than men, sexual and reproductive health issues, and pregnancy complications.¹²¹ Globally, prisons also see high rates of drug use by injection and thus high rates of HIV, hepatitis C and tuberculosis.¹²²

¹¹³ UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, [‘Right of everyone to the enjoyment of the highest attainable standard of physical and mental health’](#) (6 August 2010) A/65/255, para 16.

¹¹⁴ Ibid, paras 19, 20; CityWide Drugs Crisis Campaign, [‘Health Risks of Criminalisation’](#), accessed 19 March 2026.

¹¹⁵ Catherine Comiskey and Debra O’Neill, Traveller Substance Abuse in Ireland: A National Study (Pavee Point, Eastern Region Traveller Health Unit, Health Service Executive 2026) 2.

¹¹⁶ Steve Taylor, Understanding and Preventing Drug-Related Deaths: The Report of a National Expert Working Group to Investigate Drug-Related Deaths in England (Public Health England 2016) 29.

¹¹⁷ Global Commission on Drug Policy, [HIV, Hepatitis & Drug Policy Reform](#) (Global Commission on Drug Policy 2023) 13.

¹¹⁸ In 2024, there were 4, 441 overdose cases, of which 60 died in hospital. For more information please see Seán Millar, [‘Non-Fatal Drug-Related Hospital Admissions in Ireland, 2024’](#) (2025) 92 Drugnet 20.

¹¹⁹ Health Research Board, [Focal Point Ireland: National Report for 2024 - Harms and Harm Reduction](#) (Health Research Board 2025) 6-12.

¹²⁰ Amnesty International Ireland, [Submission to the Citizens’ Assembly on Drugs Use](#) (June 2023) 10.

¹²¹ United Nations Office on Drugs and Crime (n 41) 18, 20-21.

¹²² Louisa Degenhardt and others, [‘The Global Epidemiology of Injecting Drug Use, HIV, Viral Hepatitis and Tuberculosis among People Who Are Incarcerated: A Multistage Systematic Review’](#) (2026) 150 International Journal of Drug Policy 105062, 2.

It is also imperative, as outlined above, that such a health-led response recognises the right of people who have legal capacity to refuse health interventions.¹²³ Many people who consume controlled drugs neither want nor need an intervention or support. Models that include punitive measures or sanctions for those who do not need or want treatment or are not engaging in drug use in a problematic way, are not applying human rights standards.

¹²³ UN Committee on Economic, Cultural and Social Rights, '[General Comment No. 14: The Right to the Highest Attainable Standard of Health \(Art.12\)](#)', (11 August 2000), para 8; United Nations, 'Report of the Committee on the Rights of Persons with Disabilities - Annex: Guidelines on the Right to Liberty and Security of Persons with Disabilities', (A/72/55) 18.

3. The Way Forward: Decriminalisation of Drugs for Personal Use

It is widely recognised and accepted that the decades-long “war on drugs” has had a chilling effect on the full realisation of fundamental rights for people who use drugs globally.¹²⁴ As such, civil society organisations, health and medical experts, academics, politicians and others in Ireland have called for a paradigm shift toward drug control policies that are grounded in evidence and aim to protect public health and human rights. Decriminalisation of the possession of drugs – or the removal of criminal penalties for drug possession – is an approach taken by 39 countries globally in some form, including Portugal, the Czech Republic, Germany, Spain and the Netherlands.¹²⁵ It is also recognised as part of an essential health-led response by the United Nations system, as part of a UN Common Position from 31 agencies.¹²⁶

There is a clear pathway for Ireland to move away from the prohibition of drugs for personal use towards policies focused on evidence-based harm reduction by:

- Reducing interactions with the criminal justice system;
- Respecting the dignity of the individual;
- Ensuring non-discriminatory and voluntary access to medical treatment; and
- Treating drug use first and foremost as a public health issue.

The most immediate legal reform needed to achieve the above is repealing Section 3 of the Misuse of Drugs Act 1977 to decriminalise possession for personal use. This will remove the harmful effects of criminalisation and facilitate greater access to services, thereby promoting harm reduction. Crucially, as pointed out in April 2026 to the Joint Committee on Drugs Use, this would not imply that the State is endorsing illicit drug use in any way. As in the case of decriminalising suicide in 1993, it is possible for the State to permit an activity while also seeking to dissuade it.¹²⁷

¹²⁴ UN Special Procedures, [‘UN Experts Call for humane drug policies to uphold human rights for all’](#), accessed 18 March 2026; Global Commission on Drug Policy (n 4) 6.

¹²⁵ Fenella Sentence, [‘Opening Statement’](#) (Joint Committee on Drugs Use, 16 April 2026). For a discussion on why a Working Group concluded in 2019 that a decriminalisation model similar to Portugal’s was not suited to the Irish context see Working Group to Consider Alternative Approaches to the Possession of Drugs for Personal Use, [Report of the Working Group to Consider Alternative Approaches to the Possession of Drugs for Personal Use](#) (Dublin, Department of Health and Department of Justice and Equality 2019) 67-68.

¹²⁶ As noted by Fenella Sentence (n 125). For more information, please see United Nations, [United Nations System Common Position: Supporting the Implementation of the International Drug Control Policy Through Effective Inter-Agency Collaboration](#) (United Nations Office on Drugs and Crime 2023) 7.

¹²⁷ Cian Ó Conubhair (n 105).

Notably, however, repealing Section 3 of the Act will not create a health-led approach on its own.¹²⁸ Adopting a health-led approach to drug use will require investment in health services *alongside* decriminalisation. Evidence to the Joint Committee on Drugs Use highlighted that a combination of decriminalisation and investment in health and welfare is the correct “blend of policy and law to reduce the most acute drug-related harms”.¹²⁹ Section 3.ii of this paper provides guidance on other legal reforms that could help to facilitate this crucial shift even further.

i. Repeal of Section 3 of the Misuse of Drugs Act 1977

Section 3(1) of the Misuse of Drugs Act 1977 sets out that it is unlawful to possess a controlled substance (other than for certain professional and medical reasons which are subject to regulation under the Act) and Section 3(2) renders the possession of a controlled substance an offence (see Appendix, p. 29). It is ICCL’s view that Section 3 of the Misuse of Drugs Act 1977 should be immediately repealed. This amendment would also necessitate the deletion of Section 27(1) of the Act which outlines the penalties for individuals prosecuted under Section 3(2). The remaining subsections of Section 27 which outline the penalties for an array of other offences under the Act would be unaffected.

Repealing Section 3 of the 1977 Act would decriminalise possession of drugs for personal use. Decriminalisation refers to the removal of criminal sanctions for possession, i.e., possession would no longer be a criminal offence and criminal charges could not be applied to a person found in possession of drugs. **Critically, dealer-related activities such as the cultivation, manufacture, preparation, importation, supply and distribution of controlled substances would remain criminal offences and An Garda Síochána would maintain all its existing legal powers to address drug dealing under Section 15.**¹³⁰ The amount of the drug in question and whether it is intended for immediate personal use are central components of Section 15. Section 15(2) of the Act notes that:

¹²⁸ A comprehensive review of what is entailed as part of a health-led approach is beyond the scope of this paper.

¹²⁹ Ian Marder, ‘[Opening Statement](#)’ (Joint Committee on Drugs Use, 16 April 2026).

¹³⁰ [Misuse of Drugs Act 1977](#), s 5, 17.

“where it is proved that a person was in possession of a controlled drug and the court, *having regard to the quantity of the controlled drug which the person possessed or to such other matter as the court considers relevant, is satisfied that it is reasonable to assume that the controlled drug was not intended for the immediate personal use of the person, he shall be presumed, until the court is satisfied to the contrary, to have been in possession of the controlled drug for the purpose of selling or otherwise supplying it*”¹³¹ [*italics added*].¹³²

The proposed amendments to the Misuse of Drugs Act 1977 would allow An Garda Síochána’s resources to be focused on Section 15 and other serious offences and would not impact the expansive Garda search powers under Section 23 of the Act. Search powers are premised on a garda having reasonable suspicion that a person is in possession of a controlled substance in contravention of the Act. The Act does not specify quantities of controlled substances. When properly invoked, the search power allows gardaí to search a person and their vehicle and this would not be affected.¹³³ Similarly, the proposed amendments would not impact the Garda power of arrest set out in Section 25 of the Act.

There is no complexity, legal or otherwise, involved in repealing Section 3 as no other offences (e.g., related to sale or supply) in the Act depend on it.¹³⁴ Empirical research has shown that decriminalisation of drug use and alternative measures for dealing with possession do not lead to increased rates of drug use, despite that being a common fear.¹³⁵ There is also a lack of empirical evidence substantiating claims that decriminalisation increases health harms related to drug use, or violence and organised crime.¹³⁶ On the contrary, evidence shows positive health outcomes in decriminalised jurisdictions such as increased access to treatment¹³⁷ and reduced

¹³¹ [Misuse of Drugs Act 1977](#), s15 (2).

¹³² The presumption set out in Section 15(2) that a person found with a quantity of drugs which is more than they will immediately consume is guilty of an offence of possession for the purpose of sale or supply is a low bar.

¹³³ These search powers extend to vehicles, vessels or aircraft. See [Misuse of Drugs Act 1977](#), s 23 (1)(b).

¹³⁴ Cian Ó Concubhair (n 105).

¹³⁵ *The Lancet*, ‘Drug decriminalisation: grounding policy in evidence’ (2023) 402 *The Lancet* 1941.

C Hughes and others, [Decriminalisation of Drug Use and Possession in Australia - A Briefing Note](#) (University of New South Wales 2016); UK Home Office, ‘[Drugs: International Comparators](#)’ (UK Home Office 2014); CityWide Drugs Crisis Campaign, ‘[Drug Use - the Impact of Decriminalisation](#)’, accessed 19 March 2026.

¹³⁶ UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng (n 4), para 57.

¹³⁷ A Stevens, N Eastwood and K Douse, ‘In Defence of the Decriminalisation of Drug Possession in the UK’ (2024) 10 *Drug Science, Policy and Law* 2-3.

drug-related mortalities.¹³⁸ With a focused shift from policing to medical treatment and harm reduction, HIV transmission, overdoses and drug death rates can go down.¹³⁹ Individuals can also feel more willing and able to access treatment.¹⁴⁰ Crucially, positive health outcomes cannot be attributed to decriminalisation alone – evidence shows it must be accompanied by a broader investment in health and harm reduction measures.¹⁴¹

The Cost of Section 3 Offences

Under the Misuse of Drugs Act 1977, a violation of Section 3 for simple possession is the most common drugs-related offence in Ireland, making up 63%¹⁴² of all controlled drug crime incidents recorded as recently as Q3 2025.¹⁴³ Crucially, the suggested approach would allow finite State resources currently being spent on Section 3 offences to be diverted into prosecuting more serious crimes and the health, treatment and social services that are essential components of a health-led approach. Currently, significant resources are being utilised pursuing Section 3 convictions – 3,959 cases in the District Court and District Court of Appeals in 2025 alone (see Table 1, p. 24). In the last six years, there have been more than 20,000 prosecutions for Section 3 offences (Table 1) with significant related costs borne by An Garda Síochána, the Courts Service, the Probation Service and the Irish Prison Service.¹⁴⁴

¹³⁸ Release, [Submission to the Citizens' Assembly on Drug Use](#) (June 2023) 5; UNAIDS, *Decriminalization of Drug Use in the Context of HIV: A Guidance Note* (UNAIDS, 2026), 34.

¹³⁹ UN General Assembly, '[Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health](#)' (6 August 2010) A/65/255, para 66; CityWide Drugs Crisis Campaign, '[Improved Health Outcomes Following Decriminalisation](#)', accessed 19 March 2026.

¹⁴⁰ Alex Stevens and others, '[Depenalization, Diversion and Decriminalization: A Realist Review and Programme Theory of Alternatives to Criminalization for Simple Drug Possession](#)' (2022) 19 *European Journal of Criminology* 29, 39.

¹⁴¹ UK Home Office, '[Drugs: International Comparators](#)' (UK Home Office 2014) 6, 22; UN General Assembly, '[Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health](#)' (6 August 2010) A/65/255, para 67.

¹⁴² There were 10,012 recorded incidents of possession of drugs for personal use out of 15,769 total controlled drug offences per data up to Q3 2025. For more information, please see Central Statistics Office, '[Recorded Crime Q3 2025: Table 4.1](#)', accessed 19 March 2026.

¹⁴³ *Ibid.*

¹⁴⁴ One 2019 study found that the cost of personal possession to the criminal justice system amounted to approximately €7m. Irish Government Economic and Evaluation Service, '[Costings of an Alternative Approach to Personal Drug Possession](#)' (Dublin, Department of Justice and Equality) 18.

Table 1. Number of Persons Convicted of Section 3 Drug Offences* in the District Court/District Court of Appeals, 2020-2025¹⁴⁵

Year	Convictions for Section 3 Offences
2020	836
2021	3,772
2022	3,989
2023	3,850
2024	3,694
2025	3,959
Total	20,100

*Section 3, Misuse of Drugs Act 1977

Concerns about Public Consumption

For those who are concerned about increased public consumption of illicit drugs as a result of a repeal of Section 3, bye-laws could be introduced by local authorities to empower gardaí and other actors such as park rangers to prevent and counter this for named substances (e.g., through fines, directing people to dispose of drugs), similar to the regulation of public consumption of alcohol.¹⁴⁶

¹⁴⁵ Original data from Ní Mhurchú, C. (2026) to Ian Marder, FOI 021/26: Report by Court Office on the Number of Persons Convicted of Drug Offences imposed in the District Court and District Court Appeals for the Period Jan - Dec 2025, 24 February 2026.

¹⁴⁶ [Joint Committee on Drugs Use](#) Deb 16 April 2026 19-20.

ii. Other Suggested Legal Reforms

Expand the Misuse of Drugs Act (Supervised Injecting Facilities) 2017 to include mobile facilities and turn injecting facilities into consumption rooms

In December 2024, Ireland's first medically supervised injecting facility opened in Dublin under the Misuse of Drugs (Supervised Injecting Facilities) Act 2017, providing a clean and supervised space for people who use drugs to inject pre-obtained intravenous drugs. In 2025, 1,471 individuals used the facility.¹⁴⁷ There were 244 non-fatal overdose incidents within the facility; 98.8% of overdose incidents were successfully managed by the service and only three had to be referred to the ambulance service.¹⁴⁸ Global research points to the success of such facilities in reducing drug-related deaths and unsafe injecting behaviour without an adverse impact on the general public.¹⁴⁹

Community groups report that people seeking the services of injecting facilities need access to them in their local communities and that they are unlikely to travel to a facility if it is not geographically accessible to them.¹⁵⁰ This could be resolved by amending the 2017 Act to make injecting facilities mobile and/or part of services operating within other facilities such as hospitals and community health centres as part of a national expansion of services. Furthermore, supervised injection facilities should be turned into consumption rooms so that drugs can be safely consumed other than intravenously. This would allow a safer, health-led response based on the changing nature of drug consumption practices. Combined with decriminalisation, this would allow gardaí to refer people to a nearby medical facility rather than detaining them.

Make naloxone available over the counter by amending the Medicinal Products (Prescription and Control of Supply) Regulations 2003

Naloxone is an injectable or nasal drug that counteracts opioid overdoses. It is classified as prescription only within the Medicinal Products (Prescription and Control

¹⁴⁷ Data provided by Merchants Quay Ireland, 06 May 2026.

¹⁴⁸ Ibid.

¹⁴⁹ European Monitoring Centre for Drugs and Drug Addiction, [Drug Consumption Rooms: An Overview of Provision and Evidence](#) (European Monitoring Centre for Drugs and Drug Addiction 2018) 3, 5; Mary Clare Kennedy and others, 'Public Health and Public Order Outcomes Associated with Supervised Drug Consumption Facilities: A Systematic Review' (2017) 14 Current HIV/AIDS Reports 161.

¹⁵⁰ Stakeholder interview, 18 March 2025.

of Supply) Regulations 2003. Between 2018 and 2020, naloxone was administered to 569 people in Ireland following an overdose; 98% of those recipients survived.¹⁵¹ In 2025 there were 412 administrations of naloxone recorded.¹⁵² Put simply, naloxone saves lives by creating time between the effects of an overdose and the arrival of medical personnel to provide stabilisation treatment.

Italy is an example of a country where naloxone has been available over the counter for decades without the need for specific legislative provisions to address concerns about the legality of administering to someone for whom a drug was not prescribed.¹⁵³ By making it an over-the-counter product without the need for a prescription, it would increase accessibility considerably, thereby allowing it to save more lives.

Revisit the Criminal Justice (Rehabilitative Periods) Bill 2018 to expand spent convictions

As discussed above, a criminal conviction for drug possession can severely limit recovery options by potentially excluding individuals from educational, employment and other opportunities that are critical for rehabilitation and reintegration into society. Under the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, certain minor offences become spent after seven years.¹⁵⁴

The Criminal Justice (Rehabilitative Periods) Bill 2018 aimed to expand the range of convictions that may be regarded as spent convictions.¹⁵⁵ The Bill was supported by all political parties when it passed through the Seanad in 2021 and passed Second Stage in the Dáil unopposed in March 2026 with the Minister for Justice Jim O’Callaghan signalling his overall support for the Bill subject to a number of amendments.¹⁵⁶ The passing of this Bill would allow more people to fully participate in the workforce and society, as well as signalling a shift in realigning simple possession of drug use with other minor offences in the eyes of Irish policymakers and the public.

¹⁵¹ Seán Millar, [‘New Estimates of Problematic Opioid Use in Ireland, 2015-2019’](#) [2023] Drugnet 38.

¹⁵² [Joint Committee on Drugs Use](#) Deb 26 February 2026, 7.

¹⁵³ John Strang and Rebecca McDonald (eds), [‘Preventing Opioid Overdose Deaths with Take-Home Naloxone’ \(European Monitoring Centre for Drugs and Drug Addiction 2016\)](#) 56; Susanna Ronconi, [‘Learning from Italy’s Lead on Naloxone’](#) (*Open Society Foundations Voices*, 30 March 2017).

¹⁵⁴ [Criminal Justice \(Spent Convictions and Certain Disclosures\) Act 2016](#), s 5.

¹⁵⁵ [Criminal Justice \(Rehabilitative Periods\) Bill 2018](#), s 4.

¹⁵⁶ [Dáil Éireann Deb 5 March 2026](#) vol 1082 no 4.

Conclusion

Public attitudes to drug use and drug policy are shifting. In the most recent National Drugs and Alcohol Survey, more people responded that they viewed a person who is addicted to drugs “more as a patient” (46.6%) than “more as a criminal” (8.8%).¹⁵⁷ IPRT research from 2024 shows that 71% of respondents feel that “offenders with either mental health or addiction difficulties should receive treatment in a dedicated facility instead of being sent to prison”.¹⁵⁸

The introduction of a health-led approach to drug use has been widely endorsed but understanding of the concept and its implementation has not gone far enough. The status quo whereby the State officially promotes a health-led response yet continues to prosecute people who use drugs in large numbers represents a contradictory policy failure which harms some of the most vulnerable people in Irish society. Decriminalisation is and must be a core part of a health-led approach. By extension, relevant departments (health and justice) and the government should not claim Ireland’s drug policy is health-led unless decriminalisation for possession is at its core.

It is critical that the government makes significant strides in reducing drug harms and a lasting and impactful way to do this is through legislative reform. Incremental change is insufficient and risks maintaining entrenched beliefs in the status quo based on harsh punishment models and stigmatisation. The time for this legal reform is long overdue and must be coupled with expanded access to treatment for individuals in need of drug-related healthcare, as part of an integrated, health-led approach focused on harm reduction. If designed and implemented with the effective involvement of people who use drugs, civil society and affected communities, this approach could be transformative.

A repeal of Section 3 will not stop drug use, but it will reduce the compounding of harm that people who use drugs experience. Furthermore, money currently spent on expensive criminal justice responses can be reinvested to focus on serious crimes such as sale and supply.¹⁵⁹

¹⁵⁷ Mongan D, Millar SR, and Galvin B (n 36) 84.

¹⁵⁸ Irish Penal Reform Trust, [‘Polling shows most favour alternatives to prison to tackle overcrowding crisis’](#), 13 November 2024, accessed 29 April 2026.

¹⁵⁹ A mid-term review of the National Drugs Strategy from the Department of Public Health and Expenditure in 2021 found that about €87 million per year is spent on the “unlabelled” costs associated with hospitals, prisons and the criminal justice system in dealing with the medical and legal consequences of drug use. For more information, please see Department of Health, [Mid-Term Review of the National Drugs Strategy, Reducing Harm, Supporting Recovery and Strategic Priorities 2021-2025](#) (Department of Health 2021) 23.

Adding its voice to the global debate in 2023, *The Lancet* concluded that the evidence to show that criminalisation of drug use has failed is “overwhelming”.¹⁶⁰ It is time for policymakers to start listening. Ireland has a unique opportunity in 2026 to shift its drug policy from outdated and harmful moral judgement that criminalises and stigmatises people towards a truly health-led, evidence-based approach. It must find the courage to do so.

¹⁶⁰ *The Lancet* (n 135).

Appendix: Legislative Recommendations

Text	Suggested Edit
<p>Misuse of Drugs Act 1977, Section 3 - Restriction on Possession of Controlled Drugs</p> <ol style="list-style-type: none"> 1) Subject to subsection (3) of this section and section 4(3) of this Act, a person shall not have a controlled drug in his possession. 2) A person who has a controlled drug in his possession in contravention of subsection (1) of this section shall be guilty of an offence 3) The Minister may by order declare that subsection (1) of this section shall not apply to a controlled drug specified in the order, and for so long as an order under this subsection is in force the prohibition contained in the said subsection (1) shall not apply to a drug which is a controlled drug specified in the order 4) The Minister may by order amend or revoke an order under this section (including an order made under this subsection). 	<p>Delete Section 3.</p>
<p>Misuse of Drugs Act 1977, Section 27 - Penalties for Offences under the Act</p>	<p>Delete Section 27(1) which covers the penalties for offences under Section 3(2).</p>
<p>Misuse of Drugs (Supervised Injecting Facilities) Act 2017 - Sections 1, 3</p> <ol style="list-style-type: none"> 1. In this Act - [...] 	<p>Replace all references to "injecting" with "consumption," "consumption" to be defined as injection, inhalation, or other methods as approved by the Minister.</p>

<p>“supervised injecting facility” means a facility operated by a licence holder where authorised users may consume drugs by injection.</p> <p>3. On application made to the Minister in accordance with section 2, the Minister may grant a licence to operate a supervised injecting facility in respect of a premises where the Minister is satisfied that–</p> <ul style="list-style-type: none"> (a) the application complies with that section, (b) the premises concerned are suitable for the operation of a supervised injecting facility, (c) the applicant is capable of complying with any conditions imposed by the Minister on the licence and any requirements imposed by or under any enactment, (d) the experience and expertise of the applicant is relevant to the operation of a supervised injecting facility, and (e) the applicant is a fit and proper person to hold a licence under this section. 	<p>Amend so that the Minister may issue licenses for mobile supervised consumption facilities, provided they comply with the same standards and criteria for grant of license.</p>
<p>Medicinal Products (Prescription and Control of Supply) Regulations 2003, Section 5 - Medicinal Products subject to Prescription Control</p> <p>(1) Subject to the provisions of these Regulations a person shall not</p>	<p>Amend to remove Naloxone Hydrochloride from the First Schedule list of prescription-only medicines.</p> <p>Amend to add Naloxone to the Second Schedule, Part 1 list of medications sold under the supervision of a pharmacist.</p>

<p>supply a medicinal product of any of the following classes except in accordance with a prescription namely -</p> <p>(a) any medicinal product which is or which contains a substance specified in column 1 of the First Schedule;</p>	
<p>Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, Section 5 - Convictions which may be regarded as spent in certain circumstances</p> <p>5. (1) Where a person is convicted of an offence, whether before or after the commencement of this Part, and the conditions specified in <i>subsection (2)</i> are satisfied, then subject to provisions of this Part, the conviction may be regarded as a spent conviction.</p> <p>(2) The conditions referred to in <i>subsection (1)</i> are the following, namely:</p> <p>a) the person shall be a natural person and shall have attained the age of 18 years at the date of the commission of the offence which is the subject of the conviction concerned;</p> <p>b) not less than 7 years shall have passed since the effective date of conviction;</p> <p>c) the sentence imposed by the court in respect of the</p>	<p>Replace with:</p> <p>Criminal Justice (Rehabilitative Periods) Bill 2018, Part 2, Section 4(A), Subsections 5, 6.</p> <p>(5) Notwithstanding subsections (1) to (4), the relevant period in respect of a relevant sentence imposed on a person for an offence under section 3 of the Misuse of Drugs Act 1977 shall be the lesser of the following:</p> <p>(a) the period determined in accordance with subsections (1) to (4);</p> <p>(b) the period of 3 years.</p> <p>(6) The relevant period shall be calculated from the effective date of conviction in respect of the relevant sentence to which that period applies.</p>

<p>conviction shall not be an excluded sentence;</p> <p>d) the person shall have served or otherwise undergone or complied with any sentence imposed, or order made by the court in dealing with the person in respect of the conviction concerned.</p>	
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