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Department of Justice and Equality, Public Consultation on the new Criminal Justice System Strategy

Alcohol Action Ireland is the national independent advocate for reducing alcohol harm. We are pleased to have the opportunity to contribute to the development of the first ever strategy for the Criminal Justice System.

Our overarching goal is to achieve a reduction in consumption of alcohol and the consequent health and social harms which alcohol causes in society. Alcohol has a significant role in both actual crimes and in the underlying causes of criminal behaviour. Alcohol Action Ireland (AAI) takes a public health perspective, advocating for an overall reduction in the consumption of alcohol as a means to reduce the harm from it, though the implementation of the World Health Organisation's 'best buys' on alcohol control— eg measures around pricing, marketing and availability though statutory controls on licensing as well as regulations in areas such as drink driving.

We recognise that the criminal justice system has had and can continue to have a positive contribution in achieving some of these goals. The most obvious example is that of random breath testing, an evidence based measure implemented by An Garda Síochána, which has saved dozens of lives since its implementation.

We note the importance of addressing issues around youth justice and so we are also attaching our recent submission to the Department of Justice and Equality public consultation on Youth Justice.

AAI believes that a public health and social justice approach across all areas of criminal justice must be an integral part of any new strategy. In terms of alcohol, this means improving health and wellbeing, reducing inequalities and reducing crime and where appropriate, diverting vulnerable people away from the justice system and into treatment and support.

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Alcohol and offending

The link between substance misuse and offending is well recognised, especially in a younger cohort of the population.¹

Research in Ireland has found that ‘drugs and alcohol dependence and harmful use were by far the most common problems in prisons, present in between 61% and 79% of prisoners.’²

Alcohol is often a feature in crimes too, for example in public order offences, domestic abuse, assault and murder, as well as rape and sexual assault, and in Ireland there has been a large increase in all alcohol related crime since the early 1990s.³ A 2011 Probation Service survey indicated that in 71% of cases involving alcohol there was a direct link between alcohol and crimes committed.⁴

The most recent estimated cost of alcohol-related crime to Irish society was calculated in 2013 at €686m. This figure accounts for estimated crime-related costs from the courts, to prisons and Gardaí, to, for example, costs incurred by victims of crime and property lost through burglary and criminal damage.⁵ It does not account for other costs, for example, those incurred by victims of crime in the form of trauma, injury and death or indeed the costs to our healthcare system.

Both the Probation Service and the Irish Prison Service recognise the role drugs and alcohol play in criminality and recidivism and both have invested heavily in developing a system of provision to address drug and alcohol addictions.⁶

A comprehensive report carried out in 2016 sets out a model of care model of effective practice for the treatment of adult offenders, which facilitates a continuum of care from prison to the community.⁷

Based on a review of international literature, the National Drugs Rehabilitation Implementation Committee (NDRIC) framework, consultations with community-based organisations and prison-based health teams and addiction counsellors, the report noted that while prison is a good opportunity for offenders to address addictions, there is a strong focus on drug addiction rather than alcohol.

¹ BMJ, Violent crime among mentally ill people is due more to substance misuse than inherent factors, study shows, <https://doi.org/10.1136/bmj.c4909>, Drug use, mental health and problems related to crime and violence: cross-sectional study. See also: Shifting Focus: From Criminal Justice to Social Justice Building Better and Safer Communities, http://www.iprt.ie/files/IPRT_Barnardos_IAYPIC_Shifting_Focus_Position_Paper_EMBARGOED_TO_23_SE

² Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners (Kennedy et al., 2005).

³ Byrne, S. (2010) Costs to Society of Problem Alcohol Use in Ireland. Dublin: Health Service Executive. Hope, A. (2008). Alcohol-related harm in Ireland. Dublin: Health Service Executive – Alcohol Implementation Group

⁴ See: ‘Drugs and Alcohol Misuse Amongst the Adult Offender Population’.

⁵ Regulatory impact analysis of public health alcohol act, available at: <https://assets.gov.ie/19454/b1990c163eaf454f9f674355eaf4d504.pdf>

⁶ http://www.justice.ie/en/JELR/PS_IPS_Probation_Review_of_treatment_for_offenders.pdf/Files/PS_IPS_Probat_ion_Review_of_treatment_for_offenders.pdf

⁷ http://www.justice.ie/en/JELR/PS_IPS_Probation_Review_of_treatment_for_offenders.pdf/Files/PS_IPS_Probat_ion_Review_of_treatment_for_offenders.pdf

It notes that “alcohol abuse is just as important a contributor to criminality as is drug addiction and abuse...” and recommends that programmes that place more attention on the underlying reasons for alcohol addiction and how to prevent these triggers in the future as well as harm reduction strategies requiring further development across the prison estate are put in place.

It is clear that prison could provide a real opportunity to provide alcohol treatment and as the Review of Treatment for Offenders report recommends, this needs to be resourced commensurate with the problem.

Childhood adversity and crime

It is increasingly understood that the impact of early adversity and unresolved trauma in childhood is becoming one of the greatest public health concerns of our time.⁸

It is well established that offenders are disproportionately affected by a range of issues such as poverty, unemployment, poor mental health, educational disadvantage and experience of residential care and homelessness.⁹ Research also shows that people with FASD are over represented in care and justice systems.¹⁰

Studies in offender populations have demonstrated that links between childhood adversity, trauma and involvement in the criminal justice system are well evidenced. Those with four or more adverse childhood experiences (ACEs) are significantly more likely to be a victim of violence; perpetrator of violence; and be incarcerated during their lifetime.

As noted by a 2019 Public Health Wales study into ACEs and male adult offenders: The strong relationships found between ACEs and youth, prolific and violent offending indicate that the prevention of ACEs could provide a significant opportunity to reduce crime.¹¹

⁸ Van der Kolk, B. A. (2014). *The body keeps the score: Brain, mind, and body in the healing of trauma*. Viking. The Deepest Well: Healing The Long-Term Effects Of Childhood Adversity By Nadine Burke Harris New York (

⁹ See IPRT report:

https://www.iprt.ie/site/assets/files/6208/iprt_barnardos_iaypic_shifting_focus_position_paper_embargoed_to_23_sept_2010.pdf

¹⁰ Children with FASD are over represented among children in state care. 2013 Meta-analysis of Prevalence of Fetal Alcohol

Spectrum Disorders in Child Care Settings (Paediatrics) found (on the basis of studies that used active ascertainment) “the

overall pooled prevalence of FAS and FASD among children and youth in the care of a child care system was calculated to be 6%

(60 per 1000; 95% CI: 38-85 per 1000) and 16.9 % (169 per 1000; 95% CI: 109-238 per 1000), respectively.”

Ref: Lange S, Shield K, Rehm J, Popova S. Prevalence of fetal alcohol spectrum disorders in child care settings: a meta-analysis. *Pediatrics*. 2013 Oct;132(4):e980-995.

In New Zealand, the FASD working group reported that FASD affects about 50 percent of children and young people in Child, Youth and Family (CYF) care. FASD Working Group. 2016. Taking Action on Fetal Alcohol Spectrum Disorder: 2016–2019: An action plan. Wellington: Ministry of Health.

<https://www.health.govt.nz/publication/taking-action-fetal-alcohol-spectrum-disorder-2016-2019-action-plan>

⁷ See: Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia *BMJ Open* 2018; Prevalence and characteristics of adults with fetal alcohol spectrum disorder in corrections:

¹¹ Understanding the prevalence of adverse childhood experiences (ACEs) in a male offender population in Wales: The Prisoner ACE Survey. 2019 Public Health Wales; Bangor University. Kat Ford, Emma R. Barton, Annemarie Newbury, Karen Hughes, Zoe Bezczky, Janine Roderick, Mark A. Bellis.

These issues are covered more comprehensively in the AAI submission to the Department of Justice and Equality public consultation on Youth Justice as attached.

New criminal justice strategy

AAI believes that any new strategy must address the social issues that drive criminal behaviour in a systematic and targeted way, and that the criminal justice system and all of its agencies must become trauma informed. Indeed, a move towards a trauma-responsive criminal justice system has already been signalled by the Irish Prison Service, the Department of Justice and other state agencies.¹²

The requirement for this becomes even more compelling when we consider the level of unmet mental health need in the penal system. Alcohol is a depressant, therefore people who drink heavily are more likely to become depressed.² Men, in particular, are more likely to mask the symptoms of depression or anxiety by using alcohol.³ Studies show strong evidence for a relationship between anxiety disorders and harmful alcohol use and especially alcohol dependence.⁴ The link between alcohol and suicide has been well established.⁵ Alcohol is a factor in more than half of completed suicides in Ireland and four times more men than women die by suicide.⁶

According to a submission by the Irish Penal Reform Trust (IPRT) to the joint Oireachtas Committee on the Future of Mental Health Care, *'the level of mental health issues in the Irish penal system is overwhelming in both its scale and complexity, and the challenges are growing. For many, the experiences which precede incarceration are often marked by multiple vulnerabilities including: adversity, trauma, abuse, violence, addiction, experiences of care, poverty and homelessness. Yet we are warehousing those with the most complex needs in structures that of themselves both cause and exacerbate mental illness.'*¹³

Regarding specific actions, AAI believes that innovative solutions to the entrenched and chronic problem of alcohol misuse within the criminal justice system must be addressed.

For example in Scotland, the Community Justice Strategy¹⁴ introduced a preventative strategy recognising the relationship between problem alcohol and drug use and community justice and encouraging agencies and services that work to support, manage and supervise people who have committed offences, to focus on improving health and wellbeing and reducing inequalities as an approach to reducing offending.

The Scottish Government has established the Health and Justice Collaboration Improvement Board¹⁵ bringing together senior public sector leaders from across Health and Justice organisations to provide strategic leadership on issues where health and justice systems

¹² Toward a Trauma-Responsive Criminal Justice System: Why, How and What Next?https://www.acjrd.ie/files/ICJAC_REPORT_2018_-_Toward_a_Trauma-Responsive_Criminal_Justice_System_Why,_How_and_What_Next.pdf

TIC in correctional services may help improve the desired outcomes of successful re-entry and reduce recidivism. There are many initiatives already putting this into practice. See: <https://www.safeguardingni.org/sites/default/files/sites/default/files/imce/ACEs%20Report%20A4%20Feb%202019%20The%20Justice%20System.pdf>

¹³ <https://www.iprt.ie/latest-news/iprt-presentation-to-the-joint-committee-on-the-future-of-mental-health-care/>

¹⁴ <https://www.gov.scot/publications/national-strategy-community-justice/pages/6/>

¹⁵ <https://www.gov.scot/groups/health-and-justice-collaboration-improvement-board/>

intersect. The Board is focusing on improving the service response in three priority areas: where people in mental distress present to the police; health and social care in prisons; and healthcare and forensic medical services for victims of rape and sexual assault.

Practical initiatives such as these could help to shift attitudes and behaviours not just at individual and community level but in personnel at all levels of the criminal justice system, including criminal lawyers and judges, Gardai, prison officers and the Probation Service.

Systematic data collection around alcohol

Given the central role that alcohol plays right across the criminal justice system, it is imperative that there is systematic collection of data around alcohol – for example if alcohol is involved in specific crimes. Such data is essential to understand the scope and extent of the problem and can be used to design targeted prevention programmes and policies. This would be of particular use in crimes such as domestic abuse, sexual violence and public disorder but it would also have wider applications in gauging the effectiveness of any public health approach to reducing alcohol consumption.

Alcohol licensing

We wish to see the criminal justice system strongly assist in implementing World Health Organisation recommendations on the restriction on sale of alcohol through licensing laws, for example to curtail sale of alcohol to minors and to people who are already drunk, and we would urge the criminal justice system to lodge objections to license renewals for businesses which flout such rules.

AAI believes that the guiding principles of a new criminal justice strategy must include a call for:

- Trauma-informed training to be delivered to professionals working at all levels of criminal justice system.
- Interventions at all stages of the justice system for mental health and substance misuse.
- Recognition of the harms and costs of imprisonment.
- Emphasis on early intervention, rehabilitation and reintegration.
- Use of evidence based programmes and policies based on data collection and shared knowledge across associated sectors.

All of this is mindful of the need to also respect the rights of victims. However it should be noted that unless cycles of trauma, addiction and crime are broken and addressed, even more people are likely to become embroiled in the justice system, thus creating even more victims of crime.

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