

<b>15.1.2</b>	<b>Forensic Mental Health Services should be expanded and reconfigured so as to provide court diversion services and legislation should be devised to allow this to take place.</b>
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### **Prisons and Probation Service**

The Court Liaison Service (CLS) is a Multidisciplinary Psychiatric Service established as a Court Diversion Service to assist District Courts in identifying defendants with major mental illness and provides practical solutions to accessing appropriate mental health care in the community. The Service is based in Cloverhill Remand Prison and consists of one Consultant Psychiatrist/Team Leader (Dr Conor O’Neill. CMH), two junior Doctors/Registrars and three psychiatric nurses.

The CLS team assesses individuals who have been remanded in custody and who may have psychiatric difficulties and provides the Courts with Psychiatric reports, reports regarding Fitness to be Tried and Psychiatric Disposal Options. The assessment identifies those individuals needing treatment in High Security settings such as the Central Mental Hospital and the CLS team can also arrange access to treatment with local Psychiatric Services for those needing treatment in other settings.

As well as accepting referrals from the Courts, the CLS team will consider referrals from other disciplines within the Justice system including other prison based medical professionals and the Probation Service.

In Cloverhill Remand Prison a weekly Multi-Disciplinary meeting takes place which is chaired by the prison Governor and involves the Chief Officer, the CLS team, members of the Prison nursing staff, a Probation Officer, Addiction Counsellor and Prison Chaplain. At this meeting all vulnerable prisoners are discussed at length and other prisoners on special observations or who have self-harmed are also discussed.

The CLS team provide a very good service to the Courts and to prisoners suffering with psychiatric difficulties in Cloverhill prison.

This Diversionary Service is however, only available in Dublin and colleagues around the country are generally reporting difficulties in accessing a whole range of psychiatric services for our client group.

### **Criminal Law Reform Division**

#### **Progress to date:**

It is understood that some personnel from the Central Mental Hospital already operate a diversion scheme in Cloverhill on a non-statutory basis.

The issue of providing a statutory basis for a diversion scheme was raised by the Department of Health and Children in the context of the preparation of amendments to the Criminal Law (Insanity) Act 2006 which deal with the issue of persons who are unfit to be tried on criminal charges. That Department proposed that the amendment should enable a court in certain

circumstances to refer such persons to approved centres (as defined in the Mental Health Act 2001) for treatment on an in-patient or out-patient basis, rather than to the Central Mental Hospital which is the only centre designated for this purpose under the Criminal Law (Insanity) Act 2006 at present.

**Problems:**

There are significant difficulties in providing for such an approach because different issues are involved in the civil and criminal systems for dealing with persons who may have a mental disorder. Accordingly, the provisions which apply in the civil law (the Mental Health Act 2001) relating to the voluntary and involuntary detention of persons with mental illness and those which deal with persons charged with criminal offences under the Criminal Law (Insanity) Act 2006 differ. This is particularly the case with the provisions relating to review of detention.

Additionally, costs might also be incurred in carrying out the necessary building refurbishments to make approved centres secure for the detention of patients who have been charged with criminal offences. It is also clear that the matter would require extensive consultations with all the parties involved, including the professional bodies and the HSE.

The disadvantage with this approach from the diversion point of view is obvious. It will not result in persons with mental illness who have been charged with minor criminal offences being kept out of the criminal justice process. Its main effect will be that such persons are no longer under the jurisdiction of the Forensic Mental Health Service.

In order to achieve the stated objective, it would be necessary to disapply the provisions of the 2006 Act in favour of the civil detention system under the 2001 Act with the power of review and release being the responsibility of Mental Health Tribunals established as the need arose by the Mental Health Commission. This would be an even greater undertaking.

Examination of these matters would have delayed unduly the publication and enactment of the Criminal Law (Insanity) Amendment) Bill 2010, the primary purpose of which is to make two relatively straightforward, but urgent, amendments to the 2006 Act – one of which is directly related to a matter under appeal to the Supreme Court. The Bill, published earlier this year, has passed all stages in the Seanad and it is hoped it will be enacted as soon as possible.

Accordingly, it was decided that the provision of a statutory framework for court diversion services will be considered as part of the general review of the Criminal Law (Insanity) Act which will commence following the enactment of the 2010 Bill.

However, it should be noted that two amendments provided for in the 2010 Bill are of relevance to this issue. Where there is an issue about an accused person's fitness to be tried, the court will be required to first hear evidence from an approved medical officer on the issue of whether the person should be referred to the designated centre (Central Mental Hospital) for assessment. The amendment provides that such evidence can be used also to facilitate an informal diversion approach such as that in operation at Cloverhill. The second amendment proposes that the Minister for Health and Children can make orders designating approved centres other than the Central Mental Hospital in which persons whose fitness to be tried may be at issue can be sent by

the District Court for examination as to whether they are in need of care and treatment in a designated centre.

<b>15.1.8</b>	<b>Education and training in the principles and practices of FMHS should be established and extended to appropriate staff including An Garda Síochána.</b>
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### **Prisons and Probation Service**

In 2009 this Department, in conjunction with Staff Training and Development unit, provided training on Mental Health/Dual Diagnosis/ Personality Disorders and Self Harm. It is hoped that there will be further such training events in 2010. This training was delivered by Professor John Ferguson, Head Clinical Psychologist, Central Mental Hospital.

At the request of the Director of the National Forensic Mental Health Service, it was agreed to undertake an assessment of a case being managed by the High Risk Offender Management team which would also provide an opportunity to explore the possibility of and benefits to future joint work.

The National Forensic Mental Health Service is also involved in the Multi Agency Group on Homeless Sex Offenders. Through this development and their interest in developing the capacity to work with Sex Offenders a member of the National Forensic Mental Health Service has been invited to avail of one of our training events on Risk Matrix 2000 which is planned for early February and reciprocal training arrangements are planned for 2010.

During induction training in Irish Prison Service, all nurses are trained in the principles of forensic mental health. As part of the induction training programme, nurses spend one day in the Central Mental Hospital facility to enhance their awareness of the forensic mental health services. Suicide awareness is also a key component of the induction training programme.

The Department's Prison Policy area also feeds into the Cross Sectoral Mental Health Group in terms of Prison related mental health issues.

### **An Garda Síochána**

The Garda Síochána indicated significant progress in March 2009 in relation to recommendations 15.1.8 and 15.1.9 of "A Vision for Change". Practical cooperation is ongoing between the Garda Síochána and the HSE at local level.

Issues concerning the Garda Síochána in the operation of the Mental Health Act 2001 and the Criminal Law (Insanity) Act 2006 are now being progressed through the Cross Sectoral Team Health Justice Team which had its first meeting in June 2009. A document was collated for the Cross Sectoral Team following an examination with Garda Chief Superintendents in regard to the issues encountered in the respective Garda Divisions. The 3rd meeting of the Cross Sectoral Team in November 2009 was focussed specifically on Garda issues.

In September 2009, the Garda Commissioner and the Mental Health Commission published the Report of the Joint Working Group on Mental Health Services and the Police 2009. The Working Group was established to review best practice models of cooperation between the police and mental health services with a view to making recommendations for enhanced liaison and joint working systems between An Garda Síochána and the mental health services in Ireland. The Working Group made 7 recommendations. Dr. John Owens who chaired the Group recently gave a presentation to the Cross Sectoral Health/Justice Team. The Garda Commissioner has already progressed with Recommendation No.4 relating to Training which builds on the work already done towards implementing Recommendation 15.1.8 of "A Vision for Change.

In addition this Department would like it noted that with regard to sections 15.1.6 and 15.1.7 this Department presumes that the HSE are leading on this we would expect them to have regard for the children within the detention schools.