

## **Background Note**

### **Development of a New Youth Justice Strategy**

*(IYJS February 2019)*

#### **Introduction**

The Children Act 2001 provided the first coherent framework for the development of a Youth Justice system since the foundation of the State. The Act focusses on the treatment of children aged 12 – 18, with a view to diverting them away from crime and, as far as possible, from the Criminal Justice system. According to the 2016 Census there were approximately 375,000 children aged between 12 and 18 years in the State, and Garda figures for 2017 show that about 10,600 (3%) came to the attention of An Garda Síochána in relation to crime incidents, (i.e. referred for consideration under the Garda Diversion Programme).

The Children Act 2001, which includes provision for the Garda Diversion Programme, treatment of Children in Garda Custody, Age of Criminal Responsibility, the Children Court and Children Detention Schools, was commenced in phases over a number of years. Following a Youth Justice Review, (completed 2005/6) the Irish Youth Justice Service (IYJS) was established, within the Department of Justice and Equality, to oversee and support the operation of the Youth Justice System and the provisions in the Children Act. The IYJS was later reconfigured as a co-located Office within the Department of Children and Youth Affairs (DCYA) and the Department of Justice and Equality (DJE). DCYA oversees the operation of detention facilities, which are now centralised at the Oberstown Children Detention Campus, and

DJE supports the operation of the Garda Diversion Programme and related programmes and initiatives.

### **Progress Achieved**

The period since the introduction of the Children Act 2001 has seen progress in terms of the numbers of young offenders who have been successfully steered away from detention. In 2007, 247 young offenders (under 18) were committed to detention, whereas in 2017, a total of 80 young persons were committed. In addition, the Garda Diversion Programme has engaged successfully with young offenders and the overall numbers of children being referred for consideration under the Programme has declined from a level of over 20,000 in 2007 to just over 10,000 in 2017.

Clearly, the overall number of young persons who have significant contact with the Criminal Justice system has reduced. However, progress achieved to date underlines the need to look more closely at the reasons why a proportion of young offenders continue to commit crime and the implications of this for future Youth Justice Strategy.

It is widely accepted that, of the small percentage of children and young persons who might commit a crime, most will effectively “grow out” of such behaviour as they mature into adulthood. A considerably smaller cohort will go on to have repeated encounters with the Justice system. For example, the latest (2017) Garda analysis shows that 72% (7646) of young offenders came to Garda attention for one crime incident only, while only 5% (549) were involved in 6 or more incidents.

When the IYJS was established, (2005/6) it was considered if it might be feasible to establish an agency to support policy implementation for a broader range of child protection and welfare related issues. However, it was felt that such an agency was not feasible at the time (2005), and the subsequent establishment of Tusla provided a single agency to address issues apart from the Criminal Justice system.

In the years since the enactment of the Children Act 2001, we have seen an enormous change in the State infrastructure in relation to Children – not least in the appointment of a Minister for Children and Youth Affairs (2011) and the creation of Tusla, the Child and Family Agency (2014). There have been similarly significant developments in the Justice Sector, in particular with regard to An Garda Síochána, with the creation of the Garda Síochána Inspectorate (2006) and the Policing Authority (2016), as well as the Report of the Commission on the Future of Policing (2018).

In this context, it is timely to re-assess our strategic approach to Youth Justice, in the interests of children who may be at risk of involvement in crime, and in the interest of Irish society generally.

### **National Youth Justice Strategy**

The first National Youth Justice Strategy **2008 - 2010** focused on children who already had some contact with the criminal justice system. It aimed to provide a coordinated approach among agencies working in the youth justice system. The National Strategy was followed by the Youth Justice Action Plan 2014-2018 (YJAP). While the YJAP was positioned within the national policy framework *“Better Outcomes, Brighter Futures – the National Policy Framework for Children and Young Adults”*, (BOBF), annual reporting on its implementation

was not incorporated into the established BOBF oversight mechanisms. IYJS coordinated reporting and implementation of the YJAP, assisted by an Implementation Team, including representatives from DJE, DCYA, Oberstown Children Detention Centre, An Garda Síochána, the Probation Service, Irish Prison Service and Tusla.

In 2019, we still need to focus attention on children in contact with the Justice system, to look deeper into the reasons why a proportion of young offenders go on to become adult offenders, and how this can be better addressed.

In light of the strong links between youth offending and child and family welfare issues, it is proposed that the development of a new strategy will include consideration of how youth justice policy might be more closely aligned to other child and youth policies. This may include links to targeted policies to support children and families who experience multiple disadvantage, as well as areas such as Mental Health and liaison between Schools and State agencies.

There is also the question of what happens before and after a child reaches the age of criminal responsibility (12) and what can be done to prevent patterns of offending developing at a very young age. Likewise, there are a range of complex issues connected with the transition of offenders to the adult Justice system at age 18 and the widely accepted view that an alternative approach may be required for young adults up to 24 years of age.

These considerations emphasise the need for an approach focussed firstly on the child and the young person, as opposed to existing systems and structures. They also underline the need to firmly position a new Youth Justice Strategy within the BOBF national policy framework.

## **The Children Act 2001**

When it was introduced, the Children Act 2001 was intended as a framework to support the development of the Youth Justice system. While there have been considerable developments since its introduction, not least the modernisation and centralisation of child detention facilities, some of the Acts provisions have not really operated as intended. The Act was presented as incorporating a number of progressive and innovative provisions, including the idea of family conferencing (to be employed in relation to Child Care, Diversion and Court proceedings). A range of new community sanctions were also provided to give the Courts a range of alternatives to detention for child offenders. In practice, some of these provisions have been used far less than was envisaged.

There are other aspects of the legislation that merit reconsideration, to ensure that it provides a flexible framework to support better practical responses to real life situations. These include the Garda Diversion Programme and, as highlighted recently, our systems for dealing with those children who are not considered suitable for the Diversion Programme, as it is currently constituted.

### **Structures**

Developing a new strategy implies some consideration of the Departmental and other administrative structures required to implement it. As already outlined, the current configuration of IYJS has evolved over a number of years, and it would be opportune to consider if it remains an effective means of coordinating and supporting policy implementation. In this regard the alignment of Departmental responsibilities might also be considered – at present policy responsibility for detention of young offenders currently rests

with DCYA, while DJE is responsible for crime prevention / diversion and Courts.

Local and regional structures that might support more effective programme delivery might also be considered, including the potential for bodies such as Children and Young People's Services Committees (CYPSCs) to act as a focus for more effective collaboration between agencies and community stakeholders.

## **Conclusion**

The convening of a new Steering Group to guide the development of the new Youth Justice Strategy will give a central focus to these and many other considerations. The intention is not to describe each step of the journey, but to give us a practical map to assist us into the future.