



**An Roinn Dlí agus Cirt**  
Department of Justice

# Looking Back at Tackling Youth Crime: Youth Justice Action Plan 2014-2018:

**A Review of Progress Achieved and Lessons Learned**

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<sup>1</sup> Note, this document was accurate as at 26 August 2019. Changes to Department structures and other developments made subsequent to this date are not reflected here.

## Introduction

The Children Act 2001 (the Act),<sup>2</sup> as amended,<sup>3</sup> provides the statutory framework for the Irish youth justice system. It provides for Garda diversion for children who come into conflict with the law; for those who cannot be diverted, the Act sets out important provisions relating to the treatment of children in the youth justice system, including Garda questioning, the operation of the Children Court, the order of community sanctions following conviction and the operation of Children Detention Schools. The Act enshrines in statute the principle that detention should only be used as a last resort and sets out other principles that should guide the exercise of court jurisdiction in such cases. The Irish Youth Justice Service (IYJS), which is co-located in the Department of Justice and Equality (DoJ) and the Department of Children and Youth Affairs (DCYA), has responsibility for youth justice policy and has led the development of two youth justice policies – the *National Youth Justice Strategy 2008-2010*<sup>4</sup> and *Tackling Youth Crime: Youth Justice Action Plan 2014-2018*.<sup>5</sup> These policies provide important guidance to those responsible for the implementation and operation of the youth justice system.

The 2008 Strategy represented the first comprehensive youth justice strategy in Ireland since the introduction and commencement of the Children Act 2001. It aimed to set out a framework for a co-ordinated and strategic approach to the delivery of youth justice services, led by the IYJS. Covering the period from 2008-2010, the Strategy set out key outcomes and performance indicators and targets under five separate High Level Goals. The overall mission statement for the Strategy was to “create a safer society through working in partnership to reduce youth offending through appropriate interventions and linkages into services.

More recently, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 (YJAP)*, contained a mission statement, five High Level Goals, and a series of associated outcomes, objectives and actions to be met by youth justice agencies and stakeholders.

The High Level Goals are as follows:

**Goal 1:** To work together to ensure public confidence in dealing with young people in trouble with the law

**Goal 2:** To strengthen and develop our evidence base to support more effective policies and services, having regard to the voice of young people

**Goal 3:** To review and strengthen targeted interventions to reduce offending and divert young people from the criminal justice system

**Goal 4:** To promote and increase the use of community measures, including restorative justice, for young people who offend

**Goal 5:** To provide a safe, secure environment and necessary support for detained young people to assist their re-integration into the community.

Under YJAP, these goals are supplemented by projected outcomes and substantive objectives, each of which has key actions, deliverables and identified stakeholders given responsibility for implementation.

### Aims

This research sought to review the implementation of YJAP, with two overarching aims:

- ▶ First, it aims to identify the progress achieved in the implementation of the goals, objectives and actions;
- ▶ Second, it considers remaining gaps in implementation, identifying the lessons that might be learned from this process and concludes with recommendations as to how these lessons might be addressed in the new youth justice strategy currently under consideration.

<sup>2</sup>Children Act, 2001 (No. 24 of 2001)

<sup>3</sup>Criminal Justice Act, 2006 (No. 26 of 2006); Children (Amendment) Act 2015 (No. 30 of 2015)

<sup>4</sup>Irish Youth Justice Service, *National Youth Justice Strategy 2008-2010* (Dublin: Irish Youth Justice Service 2008)

<sup>5</sup>Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018* (Dublin: Department of Justice, 2013)

## Methodology

This research used a desk-based methodology. It reviewed the key actions taken by stakeholders named in YJAP, including the Department of Justice and Equality, the Department of Children and Youth Affairs, and other agencies including the Probation Service, An Garda Síochána, the Courts Service and Oberstown Children Detention Campus. The scope of the research took into account publicly available information accessed through a range of sources, particularly official policy documents, strategies and reports. It included the progress reports published by IYJS, supplemented by a range of documentation published by others with responsibility for implementation, as well as other academic and civil society sources. The research also involved an analysis of available academic and grey literature and an examination of the comments of international human rights treaty bodies on Ireland's progress in the implementation of human rights obligations.

There were a number of limitations to this study. With limited time and resources, the review was intended as a short, desk-based assessment of the available literature. It is thus a necessarily selective account of the steps taken in the implementation of YJAP, which did not benefit from the input of youth justice stakeholders. While particular attention was paid to the core youth justice agencies, the research did not take account of the actions of other adjacent bodies like Tusla (the Child and Family Agency), and the Department of Education and Skills.

The format of the report is as follows. Beginning with Goal 1, the report presents each High Level Goal and associated objectives of the Action Plan, and then highlights the progress made in their implementation. Each section follows with recommendations for further implementation. The report concludes with a summary of the progress made and the lessons learned from the process that are relevant to the new Strategy. Reflections on the governance on youth justice in Ireland are presented.

## High Level Goal 1: To work together to ensure public confidence in dealing with young people in trouble with the law

The first High Level Goal set out in YJAP aims to ensure public confidence in the youth justice system by ensuring that it is efficient, effective and has a positive impact on offending behaviour. Associated with this Goal are five Projected outcomes, and two substantive Objectives, each of which have key actions, deliverables and identified stakeholders with responsibility for implementation. The Objectives under High Level Goal 1 aim:

**1.1** To enhance collaboration between partners through effective information-sharing and to promote best practice;

**1.2** To ensure that Government investment in the youth justice system yields positive results.<sup>6</sup>

Eight key actions are identified to meet these objectives.

### Progress Achieved

#### Prioritising youth justice policy in wide strategies

It is a key action under Objective 1.1 to prioritise youth justice policy in the strategies, policies and programmes of all agencies, with all stakeholders identified as holders of responsibility in this area. While some progress has been achieved in this area, further steps could be taken to progress this goal.

YJAP specifically references the need to include youth justice in developing Government policy for children and young people. The key policy framework relating to children, *Brighter Outcomes, Better Futures (BOBF)*,<sup>7</sup> published in 2014, contains a number of references to youth justice policy and the operation of the youth justice system. Under Outcome 5 of BOBF, which sets out the goal that children should be “connected, respected, and contributing to their world”, there are two commitments that are particularly relevant to children in conflict with the law. These are:

**Commitment 5.12:** Drive reform in the youth justice area through the implementation of *Tackling Youth Crime – A Youth Justice Action Plan, 2014- 2018*, focusing on diversion and rehabilitation, including greater use of community-based interventions, promoting initiatives to deal with young people who offend, providing a safe

and secure environment for detained young people and supporting their early re-integration into the community.

**Commitment 5.13:** Work with children and young people to help them contribute to their own community and safety, ensuring a positive relationship between An Garda Síochána, children and young people.<sup>8</sup>

Commitment 5.12, in particular, represents an important statement in mainstream policy for children of the need to ensure that reform of youth justice is progressive insofar as it is based on principles of diversion and rehabilitation, prioritisation of community-based interventions, and the safety of young people in detention. It is significant that these principles reflect key principles of children's rights relating to children in conflict with the law,<sup>9</sup> and reinforce the importance of these principles in the development of the Irish youth justice system. The key commitment here – to implement *Tackling Youth Crime* – places an important reference to youth justice policy in mainstream children's policy. At the same time, it stops short of making detailed commitments and it might have sought to strengthen inter-agency collaboration in the implementation of the policy.<sup>10</sup> The value of effective collaboration and co-ordination across government department and agencies to the effective implementation of youth justice

<sup>6</sup> *ibid* at pp.12-13

<sup>7</sup> Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014-2020* (Dublin: Stationery Office, 2014)

<sup>8</sup> Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014-2020* (Dublin: Stationery Office, 2014) at p.105

<sup>9</sup> Articles 37 and 40 of the UN Convention on the Rights of the Child; see further UN Committee on the Rights of the Child, *General Comment No. 10: Children's rights in juvenile justice* (2007) CRC/C/GC/10

<sup>10</sup> IPRT, for example, have highlighted that legislation may be necessary to achieve this goal. See Irish Penal Reform Trust, *Progress in the Penal System (PIPS): A framework for penal reform* (Dublin: Irish Penal Reform Trust, 2018) at p.30

policy is well established. The establishment of the Irish Youth Justice Service as a co-located function across the Department of Children and Youth Affairs and the Department of Justice and Equality has been important to promote policy coherence between key government departments in youth justice and it has clearly served to improve relationships across the agencies with responsibility for the implementation of key youth justice goals. While further research is necessary to identify how to improve co-ordination between national and local youth justice agencies, it is evident that leadership provided by IYJS has been important to the delivery of national strategy. The governance of youth justice would be further strengthened by ensuring that IYJS not only continues to be co-located across the key government departments, but its authority to govern across the sector should be enhanced.

Commitment 5.13 is important in setting out a broad expectation of the role of young people in their own development, naming in particular the promotion of a positive relationship between young people and the police. In this regard, it should be noted that An Garda Síochána's current strategy notes the importance of creating positive relationships with young people,<sup>11</sup> and initiatives such as sports days<sup>12</sup> and schools in-reach activities are carried out.<sup>13</sup> The Garda Síochána *Children and Youth Strategy 2012-2014* also contained a commitment to "work to ensure their protection and we will be professional and respectful to them; we

will be sensitive to their rights and needs if they come in conflict with the law or require our assistance".<sup>14</sup> However, research on engagement between Gardaí and young people has shown that ambivalent attitudes can exist, with young people reporting both positive and very negative interactions with Gardaí on the street.<sup>15</sup> Some studies have documented the views of young people that Gardaí had behaved in a way they considered unacceptable, unfair or which did not respect their rights.<sup>16</sup> Importantly, research shows a distinction between "street Gardaí" and those with specialist roles,<sup>17</sup> highlighting a need to ensure that training on engagement with young people is mainstreamed across An Garda Síochána. There is a lack of information on stop and search practices in Ireland,<sup>18</sup> and a similar lack of research on young people's experiences in police questioning, which inhibits a more detailed understanding of the relationship between Gardaí and young people. It is noteworthy, in this respect, that while the Gardaí have in recent years begun to conduct Public Attitudes Surveys, no questions have been asked specifically about perceptions of youth crime.<sup>19</sup> It is only since 2017 that any young people have been asked their opinions in this survey, and collection of data from this group remains limited to a "booster sample" of 16- and 17-year olds.<sup>20</sup> The Ombudsman for Children has recommended that An Garda Síochána extend this to take account of the views of children under the age of 16.<sup>21</sup> This is worthy of further consideration as part of the new Youth Justice Strategy.

The *National Strategy on Children and Young People's Participation in Decision Making -2015-2020*<sup>22</sup> includes commitments to hearing the views of young people in the justice system; it references YJAP. References to youth justice policy and practice have also been incorporated into the strategies and policies of other important agencies. As referenced above, An Garda Síochána *Children and Young People Strategy 2012-2014*<sup>23</sup> references the need to uphold the rights and needs of children who come into conflict with the law. More recent strategy statements recognise the need to increase community engagement, including with minority groups and increasing opportunities for positive engagement with young people.<sup>24</sup> However, such strategies do not always identify the precise actions necessary to achieve these goals. Similarly, while objectives are set out to revise approaches to offender management, "including youth offenders",<sup>25</sup> references to how this is to be achieved is predominantly centred on continuing initiatives under the Garda Diversion Programme, rather than setting out more specific actions. The most recent strategic plan of the Probation Service also references the need to strengthen their work with young people, in co-operation with the IYJS.<sup>26</sup> It is submitted that while these commitments to improving stakeholders' work with children in conflict with the law are positive, their effectiveness could be strengthened by including more precise actions and deliverables.

There is a gap in the *Courts Service Strategic Plan 2017-*

2020 of consideration for the needs of children in conflict with the law; the only relevant issue raised in this document is the reference to the development of the new children and family court complex.<sup>27</sup> Equally, while recent progress reports of the IYJS highlight that Tusla's national service delivery framework is fully aligned with youth justice policy,<sup>28</sup> there is a dearth of specific reference to the needs of young people in conflict with the law and inter-agency co-operation in Tusla strategy.<sup>29</sup> For example, while a Joint Working Protocol has been developed between Tusla and An Garda Síochána, no specific reference is made to how this applies where a child welfare concern arises in the context of an investigation of that child's involvement in offending behaviour.<sup>30</sup> Given the critical nature of the nexus between care and justice, the future youth justice strategy presents a useful opportunity to promote better policy alignment between IYJS and Tusla.<sup>31</sup>

In general, while the cross-departmental nature of IYJS has been very important in the promotion of collaboration across the youth justice sector, consideration should be given to strengthening the Service so that it is better placed to co-ordinate between the wide range of state bodies, agencies and services affecting children in conflict with the law. In addition to including precise, measurable commitments into national children's policy consideration should be given to ensuring that IYJS has sufficient authority and resources to effectively co-operate, co-ordinate, and communicate with all relevant bodies.

<sup>11</sup> An Garda Síochána, Strategy Statement July 2016-2018 (2016) at p.8, available at [www.garda.ie](http://www.garda.ie) 12 An Garda Síochána, *Annual Report 2017* (Dublin: An Garda Síochána, 2018) at p.38; An Garda Síochána, *Annual Report 2016* (Dublin: An Garda Síochána, 2017) at p.22

<sup>13</sup> An Garda Síochána, *Annual Report 2017* (Dublin: An Garda Síochána, 2018) at p.41&44; An Garda Síochána, *Annual Report 2016* (Dublin: An Garda Síochána, 2017) at p.21; An Garda Síochána, *Annual Report 2015 (revised)* (Dublin: An Garda Síochána, 2017) at p.19&67

<sup>14</sup> An Garda Síochána, *Children and Youth Strategy 2012-2014* (Dublin: An Garda Síochána, 2009) 15 Gleeson, H. & Byrne, M., "Some of them are alright": The effects of experiences with community police officers on Irish young people's attitudes toward the police" (2015) 15(1) *Irish Journal of Applied Social Studies* 70 at p.74

<sup>15</sup> Feeney, N. & Freeman, S., "What do young people think of the Gardaí? An examination of young people's attitudes to and experiences of An Garda Síochána" (2010) 5(1) *Youth Studies Ireland* 3 at

<sup>16</sup> Gleeson, H. & Byrne, M., "Some of them are alright": The effects of experiences with community police officers on Irish young people's attitudes toward the police" (2015) 15(1) *Irish Journal of Applied Social Studies* 70 at p.76; Forde, C., Horgan, D., Martin, S., Parkes, A., "Children and Young People's Participation in the Community in Ireland: Experiences and Issues" (2017) 17(1) *Irish Journal of Applied Social Studies* 3 at p.9

<sup>17</sup> Gleeson, H. & Byrne, M., "Some of them are alright": The effects of experiences with community police officers on Irish young people's attitudes toward the police" (2015) 15(1) *Irish Journal of Applied Social Studies* 70 at p.75

<sup>18</sup> Gleeson, H. & Byrne, M., "Some of them are alright": The effects of experiences with community police officers on Irish young people's attitudes toward the police" (2015) 15(1) *Irish Journal of Applied Social Studies* 70 at p.72

<sup>19</sup> An Garda Síochána, Public Attitudes Survey 2017 (Dublin: An Garda Síochána, 2017); An Garda Síochána, *Public Attitudes Survey 2016* (Dublin: An Garda Síochána, 2016); An Garda Síochána, *Public Attitudes Survey 2015* (Dublin: An Garda Síochána, 2015)

<sup>20</sup> An Garda Síochána, Public Attitudes Survey 2017 (Dublin: An Garda Síochána, 2017)

<sup>21</sup> Ombudsman for Children, Policing Authority: Draft Policing Priorities for 2019: Submission by the Ombudsman for Children's Office (Dublin: Office of the Ombudsman for Children, September 2018) (available at [www.oco.ie](http://www.oco.ie))

<sup>22</sup> Department of Children and Youth Affairs, *National Strategy on Children and Young People's Participation in Decision-Making 2015-2020* (Dublin: Department of Children and Youth Affairs, 2015)

<sup>23</sup> An Garda Síochána, *Children and Youth Strategy 2012-2014* (Dublin: An Garda Síochána, 2009) 24 An Garda Síochána, *Strategy Statement July 2016-2018* (2016) (available at [www.garda.ie](http://www.garda.ie)) at p.8; An Garda Síochána, *Policing Plan 2018* (Dublin: An Garda Síochána, 2018) at p.22

<sup>25</sup> An Garda Síochána, Strategy Statement July 2016-2018 (2016) at p.6; An Garda Síochána, Modernisation and Renewal Programme 2016-2021 (Dublin: An Garda Síochána, 2016) at p.35; An Garda Síochána, *Policing Plan 2018* (Dublin: An Garda Síochána, 2018) at p.22; An Garda Síochána, *Policing Plan 2017* (Dublin: An Garda Síochána, 2017) at p.2; An Garda Síochána, *Policing Plan 2015* (Dublin: An Garda Síochána, 2015)

<sup>26</sup> Probation Service, *Strategic Plan 2018-2020: One Vision, One Team, One Standard*, (Dublin: Probation Service 2018)

<sup>27</sup> Courts Service, *Strategic Plan 2017-2020* (Dublin: Courts Service, 2017) available at [www.courts.ie](http://www.courts.ie); 28 Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 - Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.7

<sup>29</sup> See for example, Tusla, *Ireland's Child and Family Agency: Towards a Shared Purpose* (Dublin: Tusla, 2014); Tusla, *Child Protection and Welfare Strategy 2017-2022* (Dublin: Tusla, 2017); Tusla, *Children and Youth Participation Strategy 2019-2023* (Dublin: Tusla, 2019).

<sup>30</sup> An Garda Síochána and Tusla, *Joint Working Protocol for An Garda Síochána/Tusla - Child and Family Agency Liaison* (December 2017) (available at [www.garda.ie](http://www.garda.ie))

<sup>31</sup> See Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018)

### Continually reviewing standards and practices, the provision of training and improving young people's outcomes

Under Objective 1.1, there is a commitment to continually review standards and practices and to ensure professionals are suitably trained to this end. A key deliverable listed in the plan is a continued focus on improving young people's outcomes.

Within An Garda Síochána, training of Juvenile Liaison Officers (JLOs) takes place both on appointment and on an ongoing basis.<sup>32</sup> While some training is available for ordinary members of An Garda Síochána,<sup>33</sup> training on youth justice and children's rights should be undertaken by all Gardaí as part of standard training routines.<sup>34</sup> While it was noted in the 2016 Report of the Committee to Monitor the Effectiveness of the Garda Diversion Programme that IYJS funding of Garda training was due to cease on 1st January 2018,<sup>35</sup> no further information is available on this issue.

Within the Courts Service, progress has been made

in the adoption of both a Bench Book for the judiciary and a Practice Direction for the Children Court.<sup>36</sup> However, the Practice Direction applies only to the Dublin Metropolitan region and is thus not applicable to Children Courts outside this region. The provision of specialist training to courts service staff and legal professionals who work in the Children Court is also outstanding.<sup>37</sup>

In Oberstown Children Detention Campus, significant work has been undertaken to keep the policy framework up to date. A new policy framework was adopted during 2016/2017 as part of the work to amalgamate the three schools<sup>38</sup> and this policy framework, and the Standards and Criteria for monitoring and inspections, are currently under further review to ensure they are fit for purpose. Systems have been developed in Oberstown to enhance training and support for staff and management.<sup>39</sup> A Review Implementation Group (RIG) was established by the Minister for Children and Youth Affairs in 2017 to analyse the recommendations from various reviews which took place on the Campus

during 2016/2017. Implementation of the action plan submitted to the Minister by the RIG was completed in 2018.<sup>40</sup>

It is significant that, in line with commitments under High Level Goal 1, and following the passage of the Children First Act 2015, stakeholders now have statutory responsibilities in relation to safeguarding children, including those who come into conflict with the law. Key government stakeholders have developed Child Safeguarding Statements, in line with legislative requirements,<sup>41</sup> as have key voluntary organisations with responsibility for assisting in the implementation of youth justice policy.<sup>42</sup>

While there has been clear progress in the implementation of the above measures, it is more difficult to assess their impact. While the development and revision of policies is hugely important activity, focus should now shift onto identifying more specific actions and deliverables to guide their implementation. Focus on the improvements in positive outcomes for children should also be a priority. To this end, it would be important that future policy goals or commitments related to young people, both in any revised IYJS strategy and in relevant policies of other Government departments or stakeholders, are set out in precise, measurable terms that ensure both that these goals can be implemented in practice, and that progress in their implementation can be more effectively measured.

### Review and amend the Children Act 2001, as required

The primary amendment enacted to the Children Act since the publication of *Tackling Youth Crime* has been the

Children (Amendment) Act 2015, which amalgamated the three children detention schools, repealed provisions allowing for the detention of children in St Patrick's Institution and provided (in sections that have not been commenced) for a system of remission.

While the Act has not yet been further amended or revised, the IYJS reports that revision of the Act is contemplated in the context of wider policy review.<sup>43</sup> This action is linked in *Tackling Youth Crime* to the need to ensure that effective and efficient youth justice legislation is in place. In this regard, some deficiencies and gaps in the implementation of the legislation have been highlighted<sup>44</sup> and it is important to ensure that the need for legislative reform is kept under active review.

### North-South Co-operation

A further key commitment under Objective 1.1 is to enhance North/South and international co-operation through the sharing of best practice and information, the development of protocols, and achieving compliance with *Children First* requirements. IYJS have reported a number of actions taken to progress this goal. An Intergovernmental Agreement on Co-operation on Criminal Justice Matters signed in April 2010, governs cross-border collaboration.<sup>45</sup> This framework includes a Youth Project Advisory sub-group, and the IYJS have documented exchanges of information and meetings with officials North and South of the border in their 2014-2017 Progress reports.<sup>46</sup> The most recent annual report of An Garda Síochána also notes that Garda representatives, including JLOs, met members of the PSNI, including youth diversion officers, to discuss areas where cross-border co-operation could be increased.<sup>47</sup>

<sup>32</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p. 9; An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2016* (Dublin: An Garda Síochána, 2018) at p.11; An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2015* (Dublin: An Garda Síochána, 2016) at p.11; An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2014* (Dublin: An Garda Síochána, 2015) at p.8

<sup>33</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2016* (Dublin: An Garda Síochána, 2018) at p.11

<sup>34</sup> Kilkelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225; Shannon, G., *Ninth Report of the Special Rapporteur on Child Protection* (2016) at p.40; O'Connor, J., "What Works and What Could Work Better in Irish Youth Justice Policy" in Association for Criminal Justice Research and Development, 4th Annual Irish Criminal Justice Agencies Conference: "Youth Justice Policy in Ireland – Where to Next?" (Dublin Castle Conference Centre, 4th July 2017) at p.60; Judge, S.J., "Youth Justice" in Children's Rights Alliance and the Law Centre for Children and Young People, *Making Rights Real for Children: A Children's Rights Audit of Irish Law* (Dublin: Children's Rights Alliance, 2015) at p.156-7; Ombudsman for Children, *Policing Authority: Draft Policing Priorities for 2019: Submission by the Ombudsman for Children's Office* (Dublin: Office of the Ombudsman for Children, September 2018); Irish Human Rights and Equality Commission, *Comments on Ireland's 16th National Report on the implementation of the European Social Charter* (Dublin: Irish Human Rights and Equality Commission, May 2019) at p.25

<sup>35</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2016* (Dublin: An Garda Síochána, 2018) at p.25

<sup>36</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.8

<sup>37</sup> Kilkelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225; Shannon, G., *Ninth Report of the Special Rapporteur on Child Protection* (2016) at pp.40-41; Judge, S.J., "Youth Justice" in Children's Rights Alliance and the Law Centre for Children and Young People, *Making Rights Real for Children: A Children's Rights Audit of Irish Law* (Dublin: Children's Rights Alliance, 2015) at p.157&167; Forde, L., "Realising the Right of the Child to Participate in the Criminal Process" (2018) 18(3) *Youth Justice* 265-284.

<sup>38</sup> Oberstown Children Detention Campus, *Annual Report 2016/2017* (Dublin: Oberstown Children Detention Campus, 2018) at p.3

<sup>39</sup> Oberstown Children Detention Campus, *Annual Report 2016/2017* (Dublin: Oberstown Children Detention Campus, 2018) at p.3; Oberstown Children Detention Campus, *Annual Report 2018* (Dublin: Oberstown Children Detention Campus, 2019) at p. 28.

<sup>40</sup> See *Review Implementation Group: Final Report* (Dublin: Oberstown Children Detention Campus, December 2017) and associated updates on implementation at [www.iyjs.ie](http://www.iyjs.ie). See also Oberstown Children Detention Campus, *Annual Report 2018* (Dublin: Oberstown Children Detention Campus, 2019) p 16.

<sup>41</sup> An Garda Síochána, *Child Safeguarding Statement* (available at [www.garda.ie](http://www.garda.ie)); Probation Service, *Child Safeguarding Statement* (available at [www.probaton.ie](http://www.probaton.ie)); Oberstown Children Detention Campus, *Safeguarding Policy* (October 2018) (available at [www.oberstown.ie](http://www.oberstown.ie))

<sup>42</sup> See, for example, Le Chéile, *Child Safeguarding Statement 2018* (available at [www.lecheile.ie](http://www.lecheile.ie))

<sup>43</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.8

<sup>44</sup> Kilkelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225.

<sup>45</sup> See [http://www.justice.ie/en/JELR/Pages/criminal\\_justice\\_co-operation](http://www.justice.ie/en/JELR/Pages/criminal_justice_co-operation); Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.8

<sup>46</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.8-9; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2016* (Dublin: Irish Youth Justice Service, 2017) at p.7-8; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/5* (Dublin: Irish Youth Justice Service, 2016) at p.9

<sup>47</sup> An Garda Síochána, *Annual Report 2017* (Dublin: An Garda Síochána, 2018) at p.48

References are also made to the development of protocols in respect of Probation<sup>48</sup> and An Garda Síochána.<sup>49</sup>

### Promoting integrated approaches to youth offending

Objective 1.2 is focused on ensuring that Government investment in youth justice yields positive results. The first action set out under this Objective aims to promote integrated approaches through cross-sectoral co-operation and goal-sharing. It is notable that a number of policies of key stakeholders, including An Garda Síochána,<sup>50</sup> the Probation Service,<sup>51</sup> and Oberstown Children Detention Campus<sup>52</sup> make repeated references to inter-agency working practices. While the policies in this area continue to show commitment to the principles of inter-agency working, in practice, it seems that significant challenges remain in this area. A number of commentators have noted the difficulties experienced in Ireland in inter-agency working in areas such as information and data-sharing,<sup>53</sup> providing therapeutic care to children in the care of the State

involved in the Diversion Programme,<sup>54</sup> and in aftercare planning for young people making the transition from detention back to their communities.<sup>55</sup> Although policy commitments repeatedly emphasise the importance of effective inter-agency co-operation, and document efforts to achieve this, challenges clearly remain in this area. For this reason, it is recommended that precise and practical measures to promote closer inter-agency co-operation is identified in the new Youth Justice Strategy, with consideration being given creating a mandatory legislative requirement for inter-agency co-operation.<sup>56</sup>

### Develop, strengthen and align policies, legislation and resources, and implement effective governance

The final two actions listed under Objective 1.2 address resources. While the alignment and strengthening of policy and legislation have already been discussed in the above sections, the issue of resources and governance are significant. While key stakeholders

– both state agencies and voluntary sector organisations

– have included youth justice goals in strategic documents as appropriate,<sup>57</sup> these are not always framed in sufficiently precise terms to ensure that measurable progress is delivered. Given its status as a co-located agency across the two key government departments - DCYA and DOJ – IYJS is clearly well situated to provide over-arching leadership to the sector in this regard.

Access to sufficient resources appears to frustrate the implementation of policy in some areas of the youth justice system. For instance, lack of resources has been noted as presenting a particular difficulty in ensuring the separation of children from adults in Garda custody,<sup>58</sup> and in implementing aspects of the Garda Diversion Programme.<sup>59</sup>

The importance of targeting resources effectively has also been highlighted.<sup>60</sup> Voluntary sector organisations that play an important role in the implementation of youth justice policy have highlighted that greater resources are required to expand community service provision,<sup>61</sup> which are generally accepted to provide excellent value for money. For example, Le Chéile estimate that their interventions give a social return of €4.35 for every €1 invested.<sup>62</sup> While efforts have been made to support research into developing new ways of working which will enable more to be done with the same resources,<sup>63</sup> ensuring adequate resourcing is available for core aspects of the youth justice system and that these resources are distributed according to areas of priority and need, is worthy of greater consideration in the context of the new Youth Justice Strategy. In particular,

ensuring that the IYJS, the body responsible for leading the development of youth justice in Ireland and ensuring proper and effective co-ordination, is properly resourced and has sufficient authority to ensure that state bodies, agencies, and services can communicate and co-operate effectively is essential. Consideration should be given to further strengthening the status of IYJS so that in order to maximise its leadership and effective co-ordination of youth justice services.

### Conclusion and Recommendations

Overall, while progress has been made under key actions outlined under High Level Goal 1, more remains to be done. Looking at the overall goal set out under this heading

– to ensure public confidence in dealing with young people in trouble with the law – it should be noted that the imprecise and vague language here impedes a more complete assessment of how well the Goal has been achieved overall. While actions have been taken, it is difficult to measure to what extent these actions have had any impact on public perceptions of the youth justice system in addressing offending by children and young people. In addition to the substantive areas identified above, one area that warrants further attention in the new youth justice strategy is a strengthening of youth justice governance, with priority to be given to consolidating inter-agency collaboration under the leadership of IYJS.

<sup>48</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/5* (Dublin: Irish Youth Justice Service, 2016) at p.9

<sup>49</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2016* (Dublin: Irish Youth Justice Service, 2017) at p.7

<sup>50</sup> An Garda Síochána, *Strategy Statement July 2016-2018* (2016) at p.6; An Garda Síochána, *Policing Plan 2018* (Dublin: An Garda Síochána, 2018) at p.22; An Garda Síochána, *Policing Plan 2017* (Dublin: An Garda Síochána, 2017) at p.8; An Garda Síochána, *Policing Plan 2015* (Dublin: An Garda Síochána, 2015); An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.8

<sup>51</sup> Probation Service, *Strategic Plan 2018-2020: One Vision, One Team, One Standard*, (Dublin: Probation Service 2018) at p.2; Probation Service, *Annual Report 2017*, (Dublin: Probation Service 2018) at p.17; Probation Service, *Annual Report 2016*, (Dublin: Probation Service 2017) at p.10; Probation Service, *Annual Report 2015*, (Dublin: Probation Service 2016) at p.8; Probation Service, *Annual Report 2014*, (Dublin: Probation Service 2015) at p.15

<sup>52</sup> Oberstown Children Detention Campus, *Annual Reports 2012-2016* (Dublin: Oberstown Children Detention Campus, 2016) at p.12; Oberstown Children Detention Campus, *Strategy 2017-2020* (Dublin: Oberstown Children Detention Campus, 2017); Oberstown Children Detention Campus, *Living our Strategy: A Review of the Oberstown Strategic Plan 2017-2020* (Dublin: Oberstown Children Detention Campus, 2018) at p.5

<sup>53</sup> Judge, S.J., "Youth Justice" in Children's Rights Alliance and the Law Centre for Children and Young People, *Making Rights Real for Children: A Children's Rights Audit of Irish Law* (Dublin: Children's Rights Alliance, 2015) at p.155; Quigley, E. & Gavin, B., "ADHD and the Irish Criminal Justice System: The Question of Inertia" (2018) 15 Irish Probation Journal 84 at p.89

<sup>54</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.29

<sup>55</sup> Health Information and Quality Authority, *Monitoring Inspection Report: Oberstown Children Detention Campus* (MON-0021170) (March 2018) at p.32; Irish Penal Reform Trust, Barnardos, Children's Rights Alliance, EPIC, JCFJ, *Joint Submission to the Operational Review of Oberstown Detention Campus* (15 December 2016) at p.17

<sup>56</sup> Irish Penal Reform Trust, *Progress in the Penal System (PIPS): A framework for penal reform* (2018) (Dublin: Irish Penal Reform Trust, 2018) at p.30

<sup>57</sup> An Garda Síochána, *Strategy Statement July 2016-2018* (2016) (available at [www.garda.ie](http://www.garda.ie)); An Garda Síochána, *Modernisation and Renewal Programme 2016-2021* (Dublin: An Garda Síochána, 2016); Probation Service, *Strategic Plan 2018-2020: One Vision, One Team, One Standard*, (Dublin: Probation Service 2018); Oberstown Children Detention Campus, *Strategy 2017-2020* (Dublin: Oberstown Children Detention Campus, 2017); Le Chéile, *Inspiring Change, Transforming Lives: Le Chéile Strategy 2015-2018* (Le Chéile Mentoring & Youth Justice Support Services, 2015)

<sup>58</sup> Judge, S.J., "Youth Justice" in Children's Rights Alliance and the Law Centre for Children and Young People, *Making Rights Real for Children: A Children's Rights Audit of Irish Law* (Dublin: Children's Rights Alliance, 2015) at p.156

<sup>59</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.20&29

<sup>60</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.18

<sup>61</sup> O'Dwyer, K., *Reducing Youth Crime in Ireland* (Le Chéile Mentoring & Youth Justice Support Services, 2017) at p.112; Bamber, J., *Report of Proceedings: Garda Youth Diversion Projects Annual Conference* (November 2018) available at [www.iyjs.ie](http://www.iyjs.ie) at p.11

<sup>62</sup> O'Dwyer, K., *Reducing Youth Crime in Ireland* (Le Chéile Mentoring & Youth Justice Support Services, 2017) at p.107

<sup>63</sup> "Minister Stanton launches key reform and development actions for Youth Justice in Ireland", see <http://www.justice.ie/en/JELR/Pages/PR19000089>

## Recommendations for High Level Goal 1 are as follows:

### **Inter-agency co-operation**

While some progress has been made in including youth justice goals in the policy documents of government departments, agencies and other stakeholders, steps should be taken to link these references to national policy goals. Consideration should also be given to strengthening IYJS so that it is better placed to facilitate inter-agency co-operation and national and local co-ordination. Consideration could be given to amending legislation to mandate inter-agency co-operation as a possible way to increase levels of inter-agency co-operation between relevant Departments so that youth justice policy is effectively implemented.<sup>64</sup> This may relate to the proposal, worthy of further consideration, of the creation of a statutory agency in this area.<sup>65</sup> Regardless, it is important to strengthen the IYJS, as the national body with responsibility for youth justice, so that it has sufficient authority and resources to provide effective leadership to and co-ordination of the sector. Further, there is a need to ensure that where goals relating to the positive development of the youth justice system and engagement between stakeholders and young people are referenced in policy documents, specific commitments are undertaken to achieve these goals.

### **Development of policies**

While good progress has been made in incorporating references to youth justice priorities in a number of strategies and policies – both of Government departments and relevant stakeholders – implementation of these priorities warrants further consideration to ensure that these goals will be met. While precise actions and deliverables are identified in some policies, in others this is either not done, or the actions are vague and difficult to measure. In particular, greater attention needs to be paid to ensuring that responsible bodies, agencies and services take the needs and requirements of children in conflict with the law into account. This could be achieved through ensuring that firm, measurable commitments – which do not merely refer back to youth justice policy in a circular

way – relating to this cohort of children are embedded into broader policy for children and young people, and into the strategy and planning statements of the various responsible bodies. The new Youth Justice Strategy should make this a priority action for IYJS.

Equally, it is necessary to ensure that the commitments, goals, and outcomes set out within the youth justice policy itself are precise and measurable. In the context of this review, it is worth noting that the format of the High Level Goals, each with Projected outcomes, substantive objectives, and a number of actions under each objective, made it difficult to assess how well each element was met. In this report, emphasis was placed on assessing the stated actions, as these were generally set out in the clearest terms. In particular, it was not always clear how the Projected outcomes related to the substantive objectives, or indeed how they differed from them. In addition, some Goals, Outcomes and Objectives were sometimes vague in nature, making them difficult to evaluate. It is recommended that in the development of the next Youth Justice Strategy, and in the policies and strategies of other Government departments and agencies relevant to youth justice more generally, specific actions and deliverables are clearly defined. This will enable stated objectives to be progressed effectively and progress more effectively measured.

### **Review of legislation**

Consideration should be given to further review of the Children Act 2001 in the broader context of youth justice policy reform in order to ensure that legislation is fit for purpose, and in line with international children's rights standards and best practice.<sup>66</sup>

### **Training**

Significant training needs have been identified among core youth justice services. In particular, all Gardaí should receive training on both youth justice and engaging with children. There also appears to be a pressing need for training among officers in the courts service, and in particular among both judges and lawyers working in all areas of youth justice, given the specialist nature of their roles. Ensuring that this specialist training

is in place is necessary not only to ensure that the Irish youth justice system operates effectively, but is a core requirement if Ireland is to meet its obligations under international human rights law.<sup>67</sup>

### **Resources**

Efforts to maximise limited resources should be intensified and available resources targeted at the implementation of core youth justice and related services. IYJS, as the core government agency in this area, is arguably best placed to manage the budget process for the sector. This would be an important way to ensure that budget allocations are made in a strategic manner, in the pursuit of national policy.

<sup>64</sup> Irish Penal Reform Trust, *Progress in the Penal System (PIPS): A framework for penal reform (2018)* (Dublin: Irish Penal Reform Trust, 2018) at p.30

<sup>65</sup> Kilkelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225; Kilkelly, U., "Reform of Youth Justice in Ireland: The 'New' Children Act 2001 Part 1" (2006) 16(4) *Irish Criminal Law Journal* 2 at p.5-6

<sup>66</sup> Kilkelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225.

<sup>67</sup> UN Committee on the Rights of the Child, *General Comment No. 10: Children's rights in juvenile justice (2007)* CRC/C/GC/10 at paras.92-94

## High Level Goal 2: To strengthen and develop our evidence base to support more effective policies and services, having regard to the voice of young people

### Policy Framework

High Level Goal 2 aims to strengthen and develop the available evidence base to support more effective policies and services, having regard to the voice of young people. Four projected outcomes, and four substantive Objectives, each of which have key actions, deliverables and identified stakeholders with responsibility for implementation, are set out under this heading.

### Objectives under High Level Goal 2 are:

- 2.1** To put in place mechanisms to produce management information and performance-focused data for young people across the criminal justice system
- 2.2** To improve and increase the availability of reliable and relevant research on youth crime and the youth justice system in order to inform and focus policy and service development
- 2.3** To examine new and emerging patterns of persistent offending, including serious and violent behaviour, and design the best interventions
- 2.4** To explore active means by which the views of young people can inform policy and improve the performance of the youth justice system<sup>68</sup>

Ten key actions are identified in order to meet these objectives. These actions can be divided into a number of broad categories, encompassing the development of data collection systems, increasing the evidence base through research, designing evidence based interventions in response for persistent and serious offending, and listening to the views of children. The progress achieved under each of these actions is discussed below, including identification of where changes were experienced in measuring progress, and where gaps remain.

### Progress Achieved

#### Developing data collection systems

Data collection in Irish youth justice has been a significant challenge for some time<sup>69</sup> and YJAP

highlighted the need to promote the sharing and dissemination of data, the review of data holdings on available supports and services, and the collation of youth justice data and information. Despite this, data collection continues to be a major issue with IYJS progress reports on the implementation of the Action Plan reporting reasonably limited advances in this area. At the same time, progress has included a survey of the information held on young people by agencies represented on the YJAP Implementation Scheme,<sup>70</sup> and the gathering of data from the YLS/CMI Risk Assessment Data by GYDPs.<sup>71</sup>

Where progress has been made it appears to have been at the initiative of individual agencies or bodies in the youth justice system. For example, the Garda Diversion Programme has for many years gathered,

analysed and published information on the operation of the Diversion Programme.<sup>72</sup> In addition, the number of young people who come before the courts and the types of dispositions administered in these cases has been published by the Courts Service,<sup>73</sup> and the number and type of referrals and supervision processes are also published by the Probation Service.<sup>74</sup> Regular data is now published by Oberstown Children Detention Campus on occupancy and other matters,<sup>75</sup> with monthly 'point in time' statistics providing a useful snapshot of young people detained there. Qualitative data are also published on the young people in Oberstown, providing more detailed information on their backgrounds, history of state care, and other information on their characteristics and circumstances.<sup>76</sup> Data is also gathered by voluntary groups, such as Le Chéile.<sup>77</sup>

In certain parts of the youth justice system, however, the quality of available data is poor. For instance, the Courts Service data are particularly problematic, in that outdated terms continue to be used in relation to the range of community sanctions available, frustrating clarity as to what is happening in practice.<sup>78</sup> Similar problems have also been noted with the Probation

Service data.<sup>79</sup> More generally, data about particular groups - such as care-experienced young people and young people with special needs<sup>80</sup> - who are in contact with the justice system, are lacking.<sup>81</sup> One of the key difficulties in this area is that while each agency collects its own data, this information is not brought together in any centralised way, nor is it recorded in any consistent way across the various agencies involved. There is no longitudinal young people in, through and out of the youth justice system and little formal evaluation of the practices and interventions in place.

Some efforts are being made to understand how data collection in Ireland can be improved.<sup>82</sup> A study undertaken as part of the Research Evidence into Policy, Programmes and Practice (REPPP) Project looked at how data systems might be improved highlighted the need for a number of improvements in data collection in Ireland, including better interagency partnership, aggregate analysis of data and the ability to track a history of a young person's interaction through the youth justice system.<sup>83</sup> The recommendations of this study should be considered as part of the development of the new Youth Justice Strategy.

<sup>68</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018* (Dublin: Department of Justice, 2013) at pp.15-17

<sup>69</sup> Kilkelly, U., *Youth Justice in Ireland: Tough Lives, Rough Justice* (Dublin: Irish Academic Press, 2006) at pp1-6 & 254-255; Kilkelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225, at p.223

<sup>70</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 - Progress Report 2016* (Dublin: Irish Youth Justice Service, 2017) at p.9

<sup>71</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 - Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.11

<sup>72</sup> See An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018); An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2016* (Dublin: An Garda Síochána, 2018); An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2015* (Dublin: An Garda Síochána, 2016); An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2014* (Dublin: An Garda Síochána, 2015)

<sup>73</sup> See Courts Service, *Annual Report 2017* (Dublin: Courts Service, 2018); Courts Service, *Annual Report 2016* (Dublin: Courts Service, 2017); Courts Service, *Annual Report 2015* (Dublin: Courts Service, 2016)

<sup>74</sup> Probation Service, *Annual Report 2017*, (Dublin: Probation Service 2018); Probation Service, *Annual Report 2016*, (Dublin: Probation Service 2017); Probation Service, *Annual Report 2015*, (Dublin: Probation Service 2016); Probation Service, *Annual Report 2014*, (Dublin: Probation Service 2015)

<sup>75</sup> Oberstown Children Detention Campus, *Annual Report 2016/2017* (Dublin: Oberstown Children Detention Campus, 2018) at p.3. See the Oberstown website ([www.oberstown.com](http://www.oberstown.com)) for more information.

<sup>76</sup> See further Oberstown Children Detention Campus, *Living our Strategy: A Review of the Oberstown Strategic Plan 2017-2020* (Dublin: Oberstown Children Detention Campus, 2018) at p.8

<sup>77</sup> O'Dwyer, K., *Reducing Youth Crime in Ireland* (Le Chéile Mentoring & Youth Justice Support Services, 2017) at p.114

<sup>78</sup> Kilkelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225, at pp.217-8

<sup>79</sup> *ibid.*

<sup>80</sup> Quigley, E. & Gavin, B., "ADHD and the Irish Criminal Justice System: The Question of Inertia" (2018) 15 *Irish Probation Journal* 84 at p.88

<sup>81</sup> Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018) at p.22

<sup>82</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 - Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.11; See further "Minister Stanton launches key reform and development actions for Youth Justice in Ireland" <http://www.justice.ie/en/JELR/Pages/PR19000089>

<sup>83</sup> Reddy, J. & Redmond, S., *Improving the Measurement of Effectiveness in the Irish Youth Justice System* (Research Evidence into Policy, Programmes and Practice (REPPP) Project, University of Limerick, 2019) available at [www.iyjs.ie](http://www.iyjs.ie)

### Increasing the youth justice evidence base through research

A number of actions set out under High Level Goal 2 refer to the need for further research to build an evidence base in relation to youth justice. Actions set out highlighted the need for research:

- ▶ To identify the progression routes for certain young people into serious and adult crime
- ▶ To assess levels of compliance with community sanctions
- ▶ To examine young people's journey into detention
- ▶ To track the level and nature of recidivism through all stages of the youth justice system
- ▶ To profile substance misuse among young people subject to community sanctions or probation service supervision
- ▶ To generate a national profile of participants in the Garda Youth Diversion Projects (GYDPs) using standard measures of risk and service need
- ▶ While some of these aims have been progressed through individual studies, more systematic support for research to improve knowledge and understanding of young people's experiences of the Irish youth justice system and their pathways in and out of offending is required. An Irish Research Council DCYA-funded study is currently underway in UCC, which will address the operation of the Irish youth justice system against international research. However, although this will provide an important benchmark for the system as a whole, it will not

address the absence of data and the need for a more systematic research strategy for youth justice. Under YJAP, the following studies have been undertaken:

- ▶ The "Greentown" project examined the involvement of children in criminal networks.<sup>84</sup> The replication of the "Greentown" study has the potential to support the development of models for intervention with young people who may be at risk of becoming involved in criminal networks.<sup>85</sup>
- ▶ The Probation Service began research on processes and outcomes of family conferences with a doctoral researcher in Dublin Institute of Technology<sup>86</sup> although the status of this research is unknown.
- ▶ Although a study on young people's journey into detention was proposed by IYJS in 2014/2015,<sup>87</sup> this does not appear to have come to fruition.
- ▶ In 2013, the Probation Service published a study on recidivism carried out between 2008-2013<sup>88</sup> which recorded high rates of recidivism among young people.
- ▶ A survey conducted in 2012 by the Probation Service looking at drug and alcohol misuse were published in October 2013.<sup>89</sup>
- ▶ Data gathered through use of the YLS/CMI Risk Assessment tool were returned to the IYJS with a view to gathering information about the profiles of young people in GYDPs,<sup>90</sup> but the results of this exercise do not appear to have been published.
- ▶ Oberstown Children Detention Campus has undertaken research and published important data on the circumstances of young people in its care.<sup>91</sup>

To further High Level Goal 2, the following particular areas require attention:

- ▶ Data and research are needed to exploring repeat offending among young people including data tracking young people's pathways in and out of the youth justice system.
- ▶ Research should be undertaken into the effectiveness of community sanctions, along with wider studies documenting the efficacy of particular approaches with young people, in order to build on past studies of compliance with community sanctions.<sup>92</sup>

Overall, while some progress has been made to improve the evidence base for youth justice in Ireland, a more comprehensive data and research plan for the sector should be developed as part of the new Youth Justice Strategy.

### Designing interventions in response to an evidence base about persistent and serious offending

The goal of designing interventions to address serious and violent behaviour is set out in Objective 2.3 and notable developments in terms of designing interventions include the development of a pilot Y-JARC programme which aims to target interventions within a multi-agency approach to prolific offenders. The pilot programme was aimed at 16-21 year olds and launched in July 2017 in Cork and Dublin.<sup>93</sup>

Evaluations of projects such as those run by Le Chéile have shown positive results.<sup>94</sup> It has been noted that within the Diversion Programme there is a particular need to pay attention to the group deemed "not suitable" for inclusion, who often have complex needs and require further interventions.<sup>95</sup> It has been recommended that this group of children are readily identifiable through data collected by the Programme and that resources

should be targeted at addressing this group.<sup>96</sup> Any interventions should be based on evidence, and should be evaluated and monitored regularly to assess both their effectiveness and their compliance with children's rights standards. More generally, a commitment to evidence-based interventions should be included in future youth justice policy.<sup>97</sup>

### Listening to the voices of children

A number of national strategies have been developed since the introduction of YJAP that emphasise the importance of listening to the voices of children. In particular the National Strategy on Children and Young People's Participation in Decision-Making

2015-2020<sup>98</sup> was adopted in 2015 and progress has been made implementing this Strategy in the youth justice context. Oberstown Children Detention Campus has also published its own strategy to improve the participation of young people in decision-making at all levels of Campus decision-making.<sup>99</sup>

More generally, consultations have been carried out with young people in the youth justice system, supported by the Department of Children and Hub na nÓg, the most significant of which sought the views of children engaged in the Garda Youth Diversion Projects, conducted in November 2018.<sup>100</sup> A consultation was also carried out with young people in Oberstown Children Detention Campus on their views on revised national standards to govern the operation of Oberstown, though this has not yet been published.<sup>101</sup>

Children continue to face challenges in their participation in decision-making in specific areas of the youth justice system. This is particularly challenging in court processes, especially for children who may also have speech and language difficulties.<sup>102</sup> Therefore,

<sup>84</sup> See further Redmond, S., *Lifting the lid on Greentown – Why we should be concerned about the influence criminal networks have on children's offending behaviour in Ireland* (Dublin: Department of Children and Youth Affairs, 2015); Naughton, C. & Redmond, S., *National Prevalence Study: Do the findings from the Greentown study of children's involvement in criminal networks extend beyond Greentown?* (Dublin: Department of Children and Youth Affairs, 2017)

<sup>85</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.11

<sup>86</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.7;

<sup>87</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.7;

<sup>88</sup> Probation Service, *Probation Service Recidivism Study 2008-2013* (Dublin: Probation Service, December 2013)

<sup>89</sup> Probation Service, *Drug and Alcohol Misuse Among Young Offenders on Probation Supervision in Ireland* (Dublin: Probation Service, October 2013)

<sup>90</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.11

<sup>91</sup> See the Q1 analysis of the Circumstances of young people in Oberstown available at [www.oberstown.com](http://www.oberstown.com)

<sup>98</sup> Department of Children and Youth Affairs, *National Strategy on Children and Young People's Participation in Decision-Making 2015-2020* (Dublin: Department of Children and Youth Affairs, 2015)

<sup>99</sup> Oberstown Children Detention Campus, *Strategy for the Participation of Young People in Decision-Making* (Dublin: Oberstown Children Detention Campus, October 2017)

<sup>100</sup> Irish Youth Justice Service, *Report on Consultations with Young People Engaged in Garda Youth Diversion Projects* (Dublin: Irish Youth Justice Service, Department of Justice & Equality and the Department of Children & Youth Affairs, November 2018)

<sup>101</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.12

<sup>102</sup> O'Connor, J., "What Works and What Could Work Better in Irish Youth Justice Policy" in Association for Criminal Justice Research and Development, 4th Annual Irish Criminal Justice Agencies Conference: "Youth Justice Policy in Ireland – Where to Next?" (Dublin Castle Conference Centre, 4th July 2017) at p.12

while some progress has been achieved, ongoing efforts are needed both to ensure that children are consulted on the development of policy and practice in the Irish youth justice system, and to better support their meaningful participation when they come into contact with youth justice agencies. These ongoing efforts are essential to ensure that children's rights under Article 12 of the UNCRC are protected and upheld in line with the National Participation Strategy.

### Conclusion and Recommendations

There has been some progress under High Level Goal 2, but the following areas require greater consideration.

#### Improve data collection systems

Despite its recognition as a national priority, data collection in Irish youth justice still needs considerable improvement. An improved data collection system would provide for a means of drawing together data collected by disparate sources. There should also be a focus on ensuring that stakeholders are recording data accurately and using up-to-date, consistent categorisation and terminology. It would be important as part of any data strategy to develop protocols that allow the integration of current systems, with the sharing of anonymised data between relevant agencies. Such data collection should also include disaggregated data on particularly vulnerable groups, including children with a history of state care, children with disabilities, Traveller and Roma children, or other children who are members of minority groups. The findings of the REPPP Project study on integrated data management systems<sup>103</sup> should be taken into account in the development of new approaches to data collection.

#### Promote and encourage further research

While some progress has been made in supporting research into youth justice in Ireland, a comprehensive research strategy, with allocated budget, is important to ensure that youth justice policy and practice is informed by a solid evidence base.

#### Designing effective interventions

It is not evident to what extent research and evidence has been used to develop interventions for young people, and whether these interventions have been

effective in practice – as stated in the key objectives under this Goal. Building on good practice, existing and new interventions should be continuously evaluated and monitored to measure effectiveness and compliance with children's rights standards.

#### Listening to children

Steps should be taken to embed the an approach inclusive of the views of children and young people in the development of the Irish youth justice system. The views of young people should be systematically incorporated into the development of policy and practice so that new policy and strategy reflects experiences and views. Feedback should be provided to children and young people on how their views and concerns have been taken into account. Equally, more attention needs to be paid to ensuring that children can participate meaningfully when they come into contact with youth justice agencies and services.

## High Level Goal 3: To review and strengthen targeted interventions to reduce offending and divert young people from the criminal justice system

High Level Goal 3 aims to review and develop interventions to reduce offending and divert young people from the criminal justice system. Six Projected Outcomes, and three substantive Objectives, each of which have key actions, deliverables and identified stakeholders with responsibility for implementation, are set out under this heading. The Objectives under High Level Goal 3 aim:

- 3.1** To promote focused and effective interventions throughout Garda Youth Diversion Projects (GYDPs) to challenge and divert young people from offending behaviour
- 3.2** To utilise our GYDP resources in areas of greatest need to establish effective crime prevention supports in cooperation with other youth service providers nationwide
- 3.3** To actively promote crime prevention policy through focused educational interventions influencing positive development of young people towards becoming responsible citizens.<sup>104</sup>

Seven key actions, divided into a number of broad categories, are identified in order to meet these objectives. A number of the actions relate to the operation of the GYDPs, and the interventions delivered through them. Other actions focus on engagement with other service providers and providing young people with adequate care, and on early intervention and prevention strategies. While some of these areas overlap, the progress achieved under each of these actions is discussed below, including identification of where difficulties were experienced in measuring progress, and where gaps remain.

### Progress Achieved

#### The operation of the GYDPs

GYDPs play an important role in the Irish youth justice system, acting as a point for referral of young people admitted to the Garda Diversion Programme or more generally as an intervention for young people considered to be at risk of coming into conflict with the law. A key operational requirement for GYDPs has been use of

the standard risk assessment tool YLS/CMI 2.0.<sup>105</sup> New Operational Requirements for the GYDPs were published by the Irish Youth Justice Service in 2018<sup>106</sup> although it is unclear from published sources how two of the deliverables set out in *Tackling Youth Crime*, i.e. annual planning and output monitoring and the use of appropriate outcome measures, are being managed.

A key goal of *Tackling Youth Crime* focuses on targeting resources to priority locations. Since 2015, GYDPs are co-funded under the Programme for Employability, Inclusion and Learning (PEIL) of the European Social Fund Programme 2014-2020.<sup>107</sup> Funding was also provided under the 2016 Action plan to support the activities of GYDPs, and to support the development of new GYDPs in identified areas.<sup>108</sup> However, it has been highlighted that in some areas young people do not always have access to GYDPs.<sup>109</sup> While securing funding and establishing new GYDPs is important to ensure continued progress in the Irish youth justice system, continued attention should be paid to ensuring that these projects cover as wide a geographical areas

<sup>104</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018* (Dublin: Department of Justice, 2013) at pp.18-20

<sup>105</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.16; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2016* (Dublin: Irish Youth Justice Service, 2017) at p.11

<sup>106</sup> Irish Youth Justice Service, *Garda Diversion Projects Operational Requirements* (Dublin: Irish Youth Justice Service, 2018)

<sup>107</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2015* (Dublin: An Garda Síochána, 2016) at p.23

<sup>108</sup> "Minister Fitzgerald welcomes approval of additional funding for youth justice initiatives", see <http://www.justice.ie/en/JELR/Pages/PR16000098> and "Minister Fitzgerald announces extension of Garda Youth Diversion Projects to 10 new locations", see <http://www.justice.ie/en/JELR/Pages/PR15000143>

<sup>103</sup> Reddy, J. & Redmond, S., *Improving the Measurement of Effectiveness in the Irish Youth Justice System* (Research Evidence into Policy, Programmes and Practice (REPPP) Project, University of Limerick, 2019) available at [www.iyjs.ie](http://www.iyjs.ie)

as possible, to allow access to them by children living in more remote areas.

The development of practice in the GDYPs has also seen further development. It has been reported that in 2017, the Together Stronger-Guidelines for Effective Partnership between Garda Juvenile Liaison Officers and Garda Youth Diversion Projects were developed, as part of the GYDP Best Practice Initiative.<sup>110</sup> An external evaluation of the GYDPs was expected to be carried out in 2019, to include consultation with young people who have had experience of the projects, although its status is unclear.<sup>111</sup>

A key action set out under YJAP is to support service delivery that engages with young people and their families to establish their needs and priorities. However, it is difficult to measure progress on this goal in a meaningful way, based on published reports. Evaluations have shown that mentoring through organisations like Le Chéile has been positive for young people and families.<sup>112</sup> An evaluation of the GYDPs was due to be carried out in 2019, but its status is unknown.

Areas where further work is needed have also been identified. In particular, it was highlighted that direction is needed from the IYJS on information-sharing procedures with other relevant agencies, and further communication from the IYJS to relevant agencies increasing awareness of the role of the GYDPs.<sup>113</sup>

### Engagement with service providers and providing young people with adequate care

Key actions under High Level Goal 3 refer to the need

to engage with other youth service providers, to embed pro-social development strategies aimed at prevention with other relevant agencies and Departments, and to ensure that young people identified as being at risk of offending receive adequate care. Visibility of such services at national level appears limited.

It has been noted that accessing services can present a significant challenge not least because the availability of services can vary depending on geographical area.<sup>114</sup> Others have noted that there is a high threshold for Tusla involvement, and youth services can be under-resourced to carry out their tasks.<sup>115</sup> Difficulties with accessing services for young people has been noted to have a knock-on effect on GYDPs; one concern is that the absence of other services can lead to the GDYPs being seen as or becoming a default “fix” for young people.<sup>116</sup> The absence of adequate mental health services for young people has been highlighted as a particular problem, including for young people in the care system.<sup>117</sup> While organisations, such as Le Chéile, provide important support to young people, they too are limited with respect to providing supports nationally, given their limited resources.<sup>118</sup>

It appears from published reports that limited progress has been made in relation to embedding pro-social development strategies towards prevention. While the IYJS

reports that initiatives such as the Work to Learn Programme piloted in Kilkenny in 2015-6, School Mentoring Initiatives and pro-social modelling within the Probation Service progress this goal,<sup>119</sup> challenges remain, particularly in relation to the stated deliverable

focusing on links with relevant Departmental and Agency strategies relating to educational interventions. A particular challenge in this regard has been noted to be the practice of “reduced timetables” in schools, as a response to challenging behaviour or disciplinary concerns.<sup>120</sup>

### Early intervention and prevention strategies

References to early intervention can be found in the strategies and planning documents of An Garda Síochána.<sup>121</sup> An Garda Síochána have established initiatives in some communities to develop early intervention programmes for children and their parents, working with community partners such as schools to do this.<sup>122</sup> Early intervention programmes are also developed by An Garda Síochána in collaboration with Tusla, schools and youth clubs.<sup>123</sup> Recent progress in this area has included the launch of the GYDP Action Research Project, which will work with fifteen GYDPs over a two-year period to identify and disseminate best practice in working with young people considered to be at risk.<sup>124</sup>

It has been suggested, however, that the involvement of successful interventions such as those carried out by Le Chéile may have further impact if young people were identified at an earlier stage, for example, where school attendance becomes a problem or other support services are involved with the family.<sup>125</sup> Multi-disciplinary approaches to prevention practice have long been advocated,<sup>126</sup> and suggestions have been made that every area should have a drop-in centre where young people in need of mental health supports could

go to meet a counsellor, with a view to preventing crisis situations.<sup>127</sup>

## Conclusions and Recommendations

There has been some good progress made in the implementation of High Level Goal 3 where the provisions of resources and the leadership provided by IYJS, especially with respect to the development of the Garda Youth Diversion Projects, has been key. It is important that this progress is further consolidated under the new youth justice strategy. Gaps in service provision – such as the role of Tusla, mental health services and family support services – have hampered further achievement of High Level Goal 3. In addition to resourcing of these important areas, lessons learned from YJAP suggest that consideration should be given to strengthening the co-ordinating role of IYJS in this regard.

### The operation of the GYDPs

The GYDPs form a central part of the practical operation of the youth justice system in Ireland and placing responsibility for the GYDPs in IYJS has promoted their integration with the wider youth justice system. In any future strategy, focus should be placed on the areas where significant progress seems to be outstanding, in relation, for example, to annual planning, outcome measures, and output monitoring in the GYDPs, in developing clear information-sharing protocols, and in ensuring sufficient resources are available to ensure children in hard-to-reach areas can access projects if they need them. Particular focus should be placed on ensuring that the GYDPs are monitored and evaluated

<sup>109</sup> An Garda Síochána, *Annual Report 2015 (revised)* (Dublin: An Garda Síochána, 2017) at p.19

<sup>110</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.8

<sup>111</sup> Bamber, J., *Report of Proceedings: Garda Youth Diversion Projects Annual Conference* (November 2018) at p.6 available at [www.iyjs.ie](http://www.iyjs.ie)

<sup>112</sup> O'Dwyer, K., *Reducing Youth Crime in Ireland* (Le Chéile Mentoring & Youth Justice Support Services, 2017) at p.107

<sup>113</sup> Bamber, J., *Report of Proceedings: Garda Youth Diversion Projects Annual Conference* (November 2018) at p.16 available at [www.iyjs.ie](http://www.iyjs.ie)

<sup>114</sup> Bamber, J., *Report of Proceedings: Garda Youth Diversion Projects Annual Conference* (November 2018) at p.16 available at [www.iyjs.ie](http://www.iyjs.ie)

<sup>115</sup> Bamber, J., *Report of Proceedings: Garda Youth Diversion Projects Annual Conference* (November 2018) at p.26 available at [www.iyjs.ie](http://www.iyjs.ie)

<sup>116</sup> Bamber, J., *Report of Proceedings: Garda Youth Diversion Projects Annual Conference* (November 2018) at p.32 available at [www.iyjs.ie](http://www.iyjs.ie)

<sup>117</sup> Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018) at p.30

<sup>118</sup> O'Dwyer, K., *Reducing Youth Crime in Ireland* (Le Chéile Mentoring & Youth Justice Support Services, 2017) at p.108

<sup>119</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2016* (Dublin: Irish Youth Justice Service, 2017) at p.12; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.17

<sup>120</sup> Irish Human Rights and Equality Commission, *Comments on Ireland's 16th National Report on the implementation of the European Social Charter* (Dublin: Irish Human Rights and Equality Commission, May 2019) at p.37; Houses of the Oireachtas Joint Committee on Education and Skills, *Interim Report on the Committee's Examination on the Current Use of Reduced Timetables* (Dublin: Houses of the Oireachtas, June 2019) available at [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_education\\_and\\_skills/reports/2019/2019-07-04\\_interim-report-on-the-committee-s-examination-on-the-current-use-of-reduced-timetables\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_education_and_skills/reports/2019/2019-07-04_interim-report-on-the-committee-s-examination-on-the-current-use-of-reduced-timetables_en.pdf)

<sup>121</sup> An Garda Síochána, *Policing Plan 2014* (Dublin: An Garda Síochána, 2014) at p.14

<sup>122</sup> An Garda Síochána, *Annual Report 2016* (Dublin: An Garda Síochána, 2017) at p.25

<sup>123</sup> An Garda Síochána, *Modernisation and Renewal Programme 2016-2021* (Dublin: An Garda Síochána, 2016) at p.34; See also An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.8 124 “Minister Stanton launches key reform and development actions for Youth Justice in Ireland”, see <http://www.justice.ie/en/JELR/Pages/PR19000089>

<sup>125</sup> O'Dwyer, K., *Reducing Youth Crime in Ireland* (Le Chéile Mentoring & Youth Justice Support Services, 2017) at p.109

<sup>126</sup> Shannon, G., “Reflections on the Irish Legislation” in Association for Criminal Justice Research and Development, *4th Annual Irish Criminal Justice Agencies Conference: “Youth Justice Policy in Ireland – Where to Next?”* (Dublin Castle Conference Centre, 4th July 2017) at p.19; An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.29

on an ongoing and regular basis, with a focus on effectiveness and ensuring compliance with children's rights standards. Consideration should be given to strengthening the role of IYJS in this area, ensuring its connection with DCYA is maintained.

#### **Engagement with service providers and ensuring young people have adequate care**

Given the difficulties experienced by young people in accessing services they need, priority should be given to working with relevant service providers, agencies and departments to improve access to services for children in need. Particular consideration should be given to improving links with educational services and interventions – developing the relationship with the Department of Education and Skills and the Education Training Boards – with a view to preventing young people from becoming involved in offending behaviour, including by addressing difficulties with reduced timetables in certain schools. In this regard, it is essential to ensure that those with responsibility for implementing youth justice policy and co-ordinating provision of services within youth justice can seek active co-operation from key mainstream bodies and organisations, including education and health services, providing services to children.

#### **Early intervention and prevention**

Focus on early intervention and prevention should take account of suggestions that highlight the importance of ensuring access to multi-disciplinary services in the community, and to providing access to effective interventions where difficulties in a child's life become apparent. Structures to allow for effective co-ordination and communication between these services should be put in place, and should pay particular attention to ensuring that effective co-ordination takes place between youth justice agencies and agencies with responsibility for meeting the needs of children and young people.

## **High Level Goal 4: To promote and increase the use of community measures, including restorative justice, for young people who offend**

High Level Goal 4 aims to promote and increase the use of community measures, including restorative justice. Three Projected Outcomes, and three substantive Objectives, each of which have key actions, deliverables and identified stakeholders with responsibility for implementation are set out under this heading. The Objectives under High Level Goal 4 aim:

- 4.1** To continue to support the Probation Service in the promotion of optimum non-custodial interventions for young people who have offended
- 4.2** To continue to support the Courts Service to ensure the use of detention as a last resort
- 4.3** To ensure that restorative practices are used to the greatest extent.<sup>128</sup>

Eight key actions are identified in order to meet these objectives. These actions under this heading are most usefully analysed under the three distinct policy objectives set out. The progress achieved under each of these actions is discussed below, including identification of where difficulties were experienced in measuring progress, and where gaps remain.

#### **Progress Achieved**

##### **Support the Probation Service in the promotion of non-custodial interventions**

The Annual Reports of the Probation Service document the numbers of young people who are provided with support and supervision through their services. The Service aims to apply a holistic inter-agency approach to assessment and supervision of young people.<sup>129</sup> Data reported on engagements with young people are broken down with reference to how young people were referred to them (whether, for example, for preparation of a pre-sanction report, for family conferences, or for other reports), and by the type of supervision provided, which includes supervision during deferment of penalty, community service orders, detention and supervision orders, and other orders, including part-

or fully-suspended sentences.<sup>130</sup> However, further information on the type, nature or quality of supervision, or young people's experiences of it, is presented within these reports. IYJS Progress Reports highlight that programmes delivered by the Probation Service include: one-to-one interventions, projects focusing on literacy, education, life skills, addiction, pro-social hobbies and activities, and programmes on offending behaviour.<sup>131</sup> While there is repeated reference to the importance of inter-agency co-operation, the lack of more available information hampers a more complete assessment of the extent to which deliverables set out under YJAP have been met. It also underlines the need to ensure that the body with responsibility for implementation and co-ordination of youth justice policy and services has the authority and resources it requires to do so effectively.

A further deliverable mentioned under this Objective is the completion of a Young Offenders Recidivism study in collaboration with European partners. There is no available information on whether this study has been completed.

<sup>127</sup> Mental Health Commission and An Garda Síochána, *Joint Working Group on Mental Health Services and the Police 2009* (Dublin: Mental Health Commission, 2009) at p.52

<sup>128</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018* (Dublin: Department of Justice, 2013) at pp.22-23

<sup>129</sup> Probation Service, *Annual Report 2017*, (Dublin: Probation Service 2018) at p.17

<sup>130</sup> Probation Service, *Annual Report 2017*, (Dublin: Probation Service 2018) at p.53; Probation Service, *Annual Report 2016*, (Dublin: Probation Service 2017) at p.53; Probation Service, *Annual Report 2015*, (Dublin: Probation Service 2016) at p.52; Probation Service, *Annual Report 2014*, (Dublin: Probation Service 2015) at p.56

<sup>131</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.19; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2016* (Dublin: Irish Youth Justice Service, 2017) at p.14; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.16

### Support the Courts Service to ensure the use of detention as a last resort

Three actions are associated with the second Objective set out under High Level Goal 4. These aims to continue liaison with the judiciary to keep them informed of developments in youth justice, the provision of facilities for pre-Court consultation, and examining the feasibility of Social Impact Investment to help reduce re-offending by young people.

A number of efforts to continue engagement with the judiciary to promote knowledge of developments in youth justice have been documented. These include the publication of an information leaflet by the Probation Service entitled “Information for Judges, Lawyers and Court Staff” in 2014, and visits by judges to Oberstown.<sup>132</sup> Further efforts, including expansion of judicial shadowing for all District Court judges, and judicial engagement in seminars discussing issues relating to children, are also welcome.<sup>133</sup> A Bench Book and a Practice Direction have been developed for judges of the Children Court; it is, however, noteworthy that the Practice Direction is limited in its application to the Dublin Metropolitan region, and it could be developed further to provide better protections to children.<sup>134</sup> While efforts to prioritise cases involving children, and particularly children in custody,<sup>135</sup> are

welcome, it is significant that delays in the processing of cases involving children continue to be a challenge,<sup>136</sup> particularly where this results in a young person aging out pending trial meaning that the protections of the Children Act no longer apply.<sup>137</sup> Despite progress achieved, the statutory requirements could be strengthened by making the training of judges who sit in the Children Court mandatory, while training for other professionals who work in the courts, particularly lawyers, needs to be made compulsory.<sup>138</sup> Both measures are essential to ensure that, in practice, the courts operate in line with children’s rights standards, including the requirement to ensure detention is a measure of last resort.

A further goal set out under this objective is to provide facilities for pre-court consultations. The most significant action being taken related to this goal is the planning for the development of a new Family Law and Children Court complex in Dublin.<sup>139</sup> While this is welcome, this will benefit only the cohort of children heard before the Children Court (and it is planned, higher courts) in Dublin, it will not improve trial conditions for those outside this region. Courts Service reports have referred to other improvements, such as improvements to evidence display and video conferencing facilities.<sup>140</sup> In addition, the 2014/2015 Progress Report of the IYJS states that in the Courts

Service capital investment programme seven locations “had regard to the needs of children and those attending the Children Court. New buildings were constructed with adequate numbers of consultation rooms”.<sup>141</sup>

Finally, YJAP aims to examine the feasibility of Social Impact Investment, resulting in a new alternative for the court leading to a reduction in remands to detention. The key step representing progress on this goal is the introduction of the pilot Bail Supervision Scheme.<sup>142</sup> While the evidence-based MST approach has been welcomed as an important way of ensuring children are not sentenced to detention on remand unnecessarily,<sup>143</sup> the scheme has some limitations. In particular, it has been noted that the scheme is not currently available to children outside the Dublin region,<sup>144</sup> and that due to the necessity of having a primary caregiver available to support the young person, the scheme is not generally accessible to children in state care.<sup>145</sup> An evaluation of the Scheme has been completed, but is not yet publicly available.

Finally, it should be noted that progress on some stated deliverables is difficult to measure. For example, it is not clear the extent to which the following has been achieved - “Innovation and practice excellence

encouraged, resulting in improved social outcomes through a significant and systemic change in the youth justice system” – and it is recommended, generally, that the next Strategy include more precisely worded deliverables.

### Ensure that restorative practices are used to the greatest extent

The final objective set out under High Level Goal 4 relates to the promotion of restorative practices within the youth justice system. Some progress has been made in achieving this goal, with restorative approaches being emphasised in the policy and planning documents of key stakeholders,<sup>146</sup> and the award of a Restorative Practice Training Initiative to Ulster University.<sup>147</sup>

Although there is an emphasis on restorative justice approaches within policy documents of An Garda Síochána, and training is provided to JLOs in restorative practices,<sup>148</sup> it was reported that difficulties were experienced in 2017 in issuing them due to ambiguity caused by certain provisions in the Criminal Justice (Victims of Crime) Act 2017.<sup>149</sup> It has been recommended that restorative justice actions within the Garda Youth Diversion Programme should be extended.<sup>150</sup> Prioritisation is also given to restorative

<sup>132</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.20; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.17

<sup>133</sup> O’Connor, J., “What Works and What Could Work Better in Irish Youth Justice Policy” in Association for Criminal Justice Research and Development, *4th Annual Irish Criminal Justice Agencies Conference: “Youth Justice Policy in Ireland – Where to Next?”* (Dublin Castle Conference Centre, 4th July 2017) at p.13

<sup>134</sup> Forde, L., “Realising the Right of the Child to Participate in the Criminal Process” (2018) 18(3) *Youth Justice* 265-284.

<sup>135</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.20

<sup>136</sup> O’Connor, J., “What Works and What Could Work Better in Irish Youth Justice Policy” in Association for Criminal Justice Research and Development, *4th Annual Irish Criminal Justice Agencies Conference: “Youth Justice Policy in Ireland – Where to Next?”* (Dublin Castle Conference Centre, 4th July 2017) at p.12; Children’s Rights Alliance, *Programme for Government 2016: Commitments to Children and Young People* (Children’s Rights Alliance, 12th May 2016) at p.101

<sup>137</sup> Children’s Rights Alliance, *Are We There Yet: Parallel Report to Ireland’s Third and Fourth Combined Report under the UN Convention on the Rights of the Child* (Dublin: Children’s Rights Alliance, September 2015) at p.106

<sup>138</sup> Kilkelly, U., “Diverging or Emerging from Law? The Practice of Youth Justice in Ireland” (2014) 14(3) *Youth Justice* 212-225; Irish Penal Reform Trust, *Progress in the Penal System (PIPS): A framework for penal reform (2018)* (Dublin: Irish Penal Reform Trust, 2018) at p.30; Judge, S.J., “Youth Justice” in Children’s Rights Alliance and the Law Centre for Children and Young People, *Making Rights Real for Children: A Children’s Rights Audit of Irish Law* (Dublin: Children’s Rights Alliance, 2015) at p.157;

<sup>139</sup> Courts Service, *Annual Report 2017* (Dublin: Courts Service, 2018) at p.39; Courts Service, *Annual Report 2016* (Dublin: Courts Service, 2017) at p.33; Courts Service, *Annual Report 2015* (Dublin: Courts Service, 2016) at p.31

<sup>140</sup> Courts Service, *Annual Report 2017* (Dublin: Courts Service, 2018) at p.26-27

<sup>141</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.20

<sup>142</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2014/2015* (Dublin: Irish Youth Justice Service, 2015) at p.20; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2016* (Dublin: Irish Youth Justice Service, 2017) at p.15; Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018 – Progress Report 2017* (Dublin: Irish Youth Justice Service, 2018) at p.17; See further Shannon, G., *Eleventh Report of the Special Rapporteur on Child Protection* (2018) at p.254-5

<sup>143</sup> Shannon, G., *Eleventh Report of the Special Rapporteur on Child Protection* (2018) at p.254-5

<sup>144</sup> Shannon, G., *Eleventh Report of the Special Rapporteur on Child Protection* (2018) at p.256

<sup>145</sup> Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018) at p.37; Shannon, G., *Eleventh Report of the Special Rapporteur on Child Protection* (2018) at p.256-7

<sup>146</sup> An Garda Síochána, *Policing Plan 2015* (Dublin: An Garda Síochána, 2015); An Garda Síochána, *Policing Plan 2014* (Dublin: An Garda Síochána, 2014); Probation Service, *Annual Report 2016*, (Dublin: Probation Service 2017) at p.10; Quigley, M. Martynowicz, A. and Gardner, C., *Building Bridges: An Evaluation and Social Return on Investment of the Le Chéile Restorative Justice Project – Executive Summary* (Le Chéile Mentoring & Youth Justice Support Services, 2015)

<sup>147</sup> Bamber, J., *Report of Proceedings: Garda Youth Diversion Projects Annual Conference* at p.3 (November 2018)

<sup>148</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.9; An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2016* (Dublin: An Garda Síochána, 2018) at p.11

<sup>149</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.5

<sup>150</sup> Children’s Rights Alliance, *Programme for Government 2016: Commitments to Children and Young People* (Children’s Rights Alliance, 12th May 2016) at p.80; An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2017* (Dublin: An Garda Síochána, 2018) at p.30

approaches by the Probation Service.<sup>151</sup> The use of some restorative practices by community organisations has been evaluated as being beneficial for young people, their parents, and victims.<sup>152</sup> While progress has clearly been made in promoting restorative practices in some areas, challenges and inconsistencies in implementation still need to be addressed.<sup>153</sup> Equally, further evaluations of the effectiveness and the extent to which practice upholds the rights of children involved in them should be carried out.

While progress has been made in some areas, more limited progress appears to have been made in others, particularly with regard to court-ordered conferences. Statistics available from the Probation Service suggest that the courts refer a very low number of young people for family conferences to the Probation Service. In particular, according to the Annual Reports of the Probation Service, only 23 children were referred for a family conference in 2017; these numbers were 20 in 2016, 37 in 2015, and 36 in 2014.<sup>154</sup> These low figures warrant examination<sup>155</sup> so that consideration can be given to giving greater effect to this diversionary, restorative measure.

## Conclusions and Recommendations

There has been some progress made in the implementation of High Level Goal 4, and the following conclusions and recommendations highlight the way forward in key areas in order to ensure the continuing progressive reform of youth justice.

*Support the Probation Service in the development of community-based interventions* Continued support should be provided to the Probation Service to promote the use of community based interventions and programmes for young people. Measurement of progress under this goal would be facilitated by increasing the level of

awareness and transparency about the type and nature of interventions currently being implemented, and by undertaking evaluations of practice in this area.

### **Support the Courts Service to ensure implementation of progressive youth justice approaches**

While important progress has been made within the Courts Service, further action in this area would help meet the stated goals more completely and increase the due process protections provided to children in this context. Key actions for consideration include: the introduction of mandatory training for judges and lawyers working with children in conflict with the law and widening access to the Bail Supervision Scheme so that children only deprived of their liberty as a last resort. While the proposal to develop the new Children and Family Court complex in Dublin is welcome, its status is currently uncertain.

### **Ensure that restorative practices are used to the greatest extent possible**

While progress has been made under this goal, further work is needed to extend the use of restorative approaches by the Garda Youth Diversion Programme and in the Probation Service, and to evaluate the extent to which these practices are being implemented in line with children's rights standards. Significant further work is needed to understand the use of family conferencing by the courts and to promote their wider use.

## High Level Goal 5: To provide a safe, secure environment and necessary support for detained young people to assist their re-integration into the community

High Level Goal 5 aims to provide a safe and secure environment for detained young people and support to assist in their reintegration back into their communities. Six Projected outcomes, and three substantive Objectives, each with key actions, deliverables and identified stakeholders with responsibility for implementation are set out under this heading. The Objectives under High Level Goal 5 aim:

- 5.1** To provide evidence-based care and developmental opportunities to young people in detention and prepare them to take their place in the community as persons who observe the law and are capable of making a positive and productive contribution to society
- 5.2** To complete the development of integrated services in the Children Detention Schools
- 5.3** To complete the new national children detention facilities in Oberstown by 2015<sup>156</sup>

Eight key actions are identified in order to meet these objectives. These actions under this heading are most usefully analysed under the three distinct policy objectives. The progress achieved under each of these actions is discussed below, including identification of where difficulties were experienced in measuring progress, and where gaps remain.

### Progress Achieved

#### To provide evidence-based care to young people in detention and provide supports to assist their return to their communities

A key action under Objective 5.1 is to ensure that specialist therapeutic services are provided to young people in detention schools, encompassing service provision in a wide range of areas. A new model of care, based on the Children Act, was introduced into Oberstown in 2014, known as the "CEHOP" model.<sup>157</sup>

This model of care is focused on providing programmes and interventions focused on Care (C), Education (E), Health (H), Offending Behaviour (O), and Preparation for Leaving (P). Educational facilities are provided on Campus by Dublin and Dun Laoghaire Education and Training Board,<sup>158</sup> and psychiatric services are provided by the HSE.<sup>159</sup> The 2018 HIQA inspection report welcomed the CEHOP model of care but noted that work was required to embed it further into practice.<sup>160</sup>

A notable achievement in ensuring the views of children are prioritised in detention is the publication of the Oberstown Participation Strategy,<sup>161</sup> and the appointment of an Advocacy Officer to support young people in making their voices heard.<sup>162</sup>

While progress has been achieved, continuing work to develop working protocols with other stakeholders is clearly still needed. In Oberstown's submission to

<sup>151</sup> Probation Service, *Annual Report 2016*, (Dublin: Probation Service 2017) at p.10; See further Quigley, E., "Pre-sentence Reports in the Irish Youth Justice System: A Shift to Risk-Oriented Practice?" (2014) 11 *Irish Probation Journal* 63

<sup>152</sup> Quigley, M., Martynowicz, A. and Gardner, C., *Building Bridges: An Evaluation and Social Return on Investment of the Le Cheile Restorative Justice Project – Executive Summary* (Le Cheile Mentoring & Youth Justice Support Services, 2015); Quigley, M., Martynowicz, A. & Gardner, C., "Building Bridges: An Independent Evaluation of Le Cheile's Restorative Justice Project Research Findings" (2015) 12 *Irish Probation Journal* 241

<sup>153</sup> See further Kilkelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225.

<sup>154</sup> Probation Service, *Annual Report 2017*, (Dublin: Probation Service 2018) at p.53; Probation Service, *Annual Report 2016*, (Dublin: Probation Service 2017) at p.53

<sup>155</sup> Forde, L., "Realising the Right of the Child to Participate in the Criminal Process" (2018) 18(3) *Youth Justice* 265-284.

<sup>156</sup> Irish Youth Justice Service, *Tackling Youth Crime: Youth Justice Action Plan 2014-2018* (Dublin: Department of Justice, 2013) at pp.25-27

<sup>157</sup> Oberstown Children Detention Campus, *Annual Reports 2012-2016* (Dublin: Oberstown Children Detention Campus, 2016) at p.9

<sup>158</sup> Oberstown Children Detention Campus, *Annual Reports 2012-2016* (Dublin: Oberstown Children Detention Campus, 2016) at p.18

<sup>159</sup> Oberstown Children Detention Campus, *Annual Reports 2012-2016* (Dublin: Oberstown Children Detention Campus, 2016) at p.19

<sup>160</sup> Health Information and Quality Authority, *Monitoring Inspection Report: Oberstown Children Detention Campus* (MON- 0021170) (March 2018) at p.17

<sup>161</sup> Oberstown Children Detention Campus, *Strategy for the Participation of Young People in Decision-Making* (Dublin: Oberstown Children Detention Campus, October 2017)

<sup>162</sup> Oberstown Children Detention Campus, *Living our Strategy: A Review of the Oberstown Strategic Plan 2017-2020* (Dublin: Oberstown Children Detention Campus, 2018) at p.6

the Commission on the Future of Policing in Ireland, it was noted that young people presented to Oberstown with injuries sustained in the process of being arrested, and further that there were issues with young people having opportunities to access drugs while under the supervision of Gardaí while attending court.<sup>163</sup> Issues such as this highlight the continuing need for engagement and development of protocols with external agencies to ensure that children's needs are met.

A key action under this objective relates to the need to provide support to young people transitioning back to their communities. In its 2018 inspection of Oberstown, HIQA noted that while placement planning involved multi-disciplinary meetings with a view to establishing support networks for children, there were significant difficulties engaging the external services who provide these services.<sup>164</sup> This highlights the need to improve systems for inter-agency working, including the development of further working protocols with agencies such as the Probation Service and Tusla.<sup>165</sup> HIQA, in particular, noted that aftercare services were not being provided by Tusla, in line with legislation and best practice. <sup>166</sup> Consideration should thus be given to reviewing legislative requirements<sup>167</sup> for aftercare to include young people leaving Oberstown so that they can be adequately supported when returning to their communities. Consideration should also be given to strengthening governance structures to enable more

effective co-ordination between agencies directly involved in the delivery of youth justice services, and agencies concerned with the delivery of more mainstream children's services, such as Tusla.

#### To complete the development of integrated services in the Children Detention Schools

There is significant overlap between Objectives 5.2 and 5.3 which are discussed together below.

The Children (Amendment) Act 2015 amalgamated the Children Detention Schools into the single facility - Oberstown Children Detention Campus. Reforms in Oberstown have enabled implementation of the goal that all young people up to 18 years are detained in a child-focused facility, facilitating the closure of St Patrick's Institution and an end to the practice of detaining children in adult institutions, in line with international standards in this area.<sup>168</sup>

In addition, systems to improve efficiency in service delivery have been continuing to develop, including advancing work on developing a case management system to digitise record-keeping in Oberstown.<sup>169</sup> A Strategic Plan was developed in 2017,<sup>170</sup> and its implementation reviewed in 2018.<sup>171</sup> A new policy framework was introduced with revised policies governing the operation of the Campus.<sup>172</sup> These policies continue to be reviewed on an ongoing basis.<sup>173</sup>

Oberstown continues to be monitored on an annual basis by HIQA. The 2018 inspection report noted that improvements had continued to take place.<sup>174</sup> Significant reductions in the use of single separations have been recorded in 2018<sup>175</sup> and 2019,<sup>176</sup> with further improvements needed.<sup>177</sup>

Measures taken to respond to issues highlighted in inspections and reviews have begun to have a positive effect.<sup>178</sup> While this work continues, the implementation of the Review Implementation Group Action Plan shows important signs of progress.<sup>179</sup>

#### To complete the new national children detention facilities in Oberstown by 2015

Key actions under this Objective aimed to complete the national children detention school facilities in Oberstown, and to recruit and train sufficient staff. Both of these objectives have been met.

The amalgamation of the Children Detention Schools took place over a period of three years, and since June 1, 2016, a new legal entity – Oberstown Children Detention Campus – has been in existence.<sup>180</sup> In addition, new staff recruited to Oberstown were required to be highly qualified and experienced, and were provided with support and training after taking up their positions.<sup>181</sup> A Human Resources department established in 2016 is responsible for staff training, implementation of the CEHOP model of care, and managing behaviour.<sup>182</sup>

## Conclusions and Recommendations

There has been significant progress achieved in the implementation of High Level Goal 5 with the establishment of the Oberstown Children Detention Campus and associated reforms bringing an end to the detention of children in adult prison. Clearly articulated national policy priorities has aided these reforms and supported their measurement. Work must continue to consolidate the progress made.

#### The provision of evidence-based care and supports for reintegration

Significant progress has been made in introducing a new CEHOP model of care to Oberstown Campus, and in advancing policies and practical arrangements to ensure that the voices of children are heard. Continuing efforts are needed to ensure that CEHOP is fully integrated in practice, to engage with and develop protocols with external stakeholders so that all the necessary supports are in place when a young person transitions back to their community. Legislative change may be necessary to mandate co-operation in this area.

#### The development of integrated services in the Children Detention Schools

Significant progress has been made in the development of integrated services in Oberstown Children Detention Campus. Continuing attention is necessary to ensure that HIQA recommendations are implemented to the maximum extent possible, paying particular attention to ongoing reduction in the use of restrictive practices.

<sup>163</sup> Oberstown Children Detention Campus, *Submission to the Commission on the Future of Policing in Ireland* (Dublin: Oberstown Children Detention Campus, January 2018)

<sup>164</sup> Health Information and Quality Authority, *Monitoring Inspection Report: Oberstown Children Detention Campus* (MON- 0021170) (March 2018) at p.32

<sup>165</sup> See further Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018) at p.49

<sup>166</sup> Health Information and Quality Authority, *Monitoring Inspection Report: Oberstown Children Detention Campus* (MON- 0021170) (March 2018) at p.32

<sup>167</sup> See further Irish Penal Reform Trust, *Progress in the Penal System (PIPS): A framework for penal reform (2018)* (Dublin: Irish Penal Reform Trust, 2018); Children's Rights Alliance, *Report Card 2015*, (Dublin: Children's Rights Alliance, 2015) at p.105-6; Children's Rights Alliance, *Report Card 2014*, (Dublin: Children's Rights Alliance, 2014) at p.118

<sup>168</sup> Shannon, G., *Ninth Report of the Special Rapporteur on Child Protection* (2016) at p.181; See further "Closure of St Patrick's Institution" <http://www.iprt.ie/contents/3096>; Children's Rights Alliance, *Report Card 2016*, (Dublin: Children's Rights Alliance, 2016) at p.98-99; UN Committee Against Torture, *Concluding Observations on the second periodic report of Ireland (CAT/C/IRL/CO/2)* 31st August 2017 at para.4;

<sup>169</sup> Oberstown Children Detention Campus, *Annual Report 2016/2017* (Dublin: Oberstown Children Detention Campus, 2018) at p.20

<sup>170</sup> Oberstown Children Detention Campus, *Strategy 2017-2020* (Dublin: Oberstown Children Detention Campus, 2017)

<sup>171</sup> Oberstown Children Detention Campus, *Living our Strategy: A Review of the Oberstown Strategic Plan 2017-2020* (Dublin: Oberstown Children Detention Campus, 2018). See also Oberstown Children Detention Campus: Annual Report 2018 (Dublin: Oberstown Children Detention Campus, 2019).

<sup>172</sup> See [www.oberstown.ie](http://www.oberstown.ie)

<sup>173</sup> Oberstown Children Detention Campus, *Living our Strategy: A Review of the Oberstown Strategic Plan 2017-2020* (Dublin: Oberstown Children Detention Campus, 2018) at p.4

<sup>174</sup> Health Information and Quality Authority, *Monitoring Inspection Report: Oberstown Children Detention Campus* (MON- 0021170) (March 2018) at p.9

<sup>175</sup> Health Information and Quality Authority, *Monitoring Inspection Report: Oberstown Children Detention Campus* (MON- 0021170) (March 2018) at p.24

<sup>176</sup> See statistics at [www.oberstown.com](http://www.oberstown.com)

<sup>177</sup> Health Information and Quality Authority, *Monitoring Inspection Report: Oberstown Children Detention Campus* (MON- 0021170) (March 2018) at p.25-26

<sup>178</sup> Oberstown Children Detention Campus, *Living our Strategy: A Review of the Oberstown Strategic Plan 2017-2020* (Dublin: Oberstown Children Detention Campus, 2018) at p.5

<sup>179</sup> Kilkelly, U., *Review Implementation Group: Final Report* (Dublin: Oberstown Children Detention Campus, December 2017); Oberstown Children Detention Campus, *Response of the Board of Management to the Recommendations of the Operational Review* (Dublin: Oberstown Children Detention Campus, July 2017)

<sup>180</sup> Oberstown Children Detention Campus, *Annual Reports 2012-2016* (Dublin: Oberstown Children Detention Campus, 2016) at p.4

<sup>181</sup> Government of Ireland, *Response of the Government of Ireland to the report to the Government of Ireland 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 16 to 26 September 2014* (Strasbourg, 17th November 2015) (CPT/Inf(2015)39 at p.78

<sup>182</sup> Oberstown Children Detention Campus, *Annual Report 2016/2017* (Dublin: Oberstown Children Detention Campus, 2018) at p.20

The completion of the new national children detention facilities in Oberstown

While this objective has been met, and no further substantial work is needed to ensure full implementation of this objective, it is important that this progress is protected through sustained investment and reiterated support for the CEHOP approach in the new Youth Justice Strategy.

## Overall Conclusions

In conclusion, this review of the progress achieved under Tackling Youth Crime makes clear that significant progress has been made across a range of areas. At the same time, further work is needed in a number of areas to fully implement the policy goals and objectives.

However, it is at times difficult to evaluate whether and to what extent progress has been achieved due to lack of information, or the vague nature of the language used in YJAP. The format of the High Level Goals, each with Projected Outcomes, substantive Objectives, and Actions under each Objective, made it difficult to assess how well each element was met in places. In particular, it was difficult to ascertain how the Projected Outcome set out under each High Level Goal related to the actions and deliverables. For this reason, attempts to review progress were measured solely against the actions and deliverables, and the stated High Level Goals and Objectives, and excluded the Projected Outcomes, which seemed to express long-term aspirations for the development of the system rather than measurable actions and outcomes. It is recommended that in future youth justice policy, stated objectives are set out as precisely as possible, ensuring the inclusion of actions and deliverables that are capable of effective measurement.

While YJAP also sets out who is responsible for the delivery of specific actions, in many cases, this is the responsibility of “All stakeholders”. At times, this makes it difficult to ascertain exactly which agency or body has responsibility for carrying out particular actions and this must inevitably hamper the implementation of the strategy. The lack of detail in the strategy and related policy documents has thus made it difficult to evaluate how effectively these agencies have carried out these actions.

A further key learning from YJAP relates to the importance of strong, coherent governance for youth justice policy and service delivery. Implementation of youth justice policy, and effective communication, co-ordination and co-operation between relevant agencies and departments is vital to ensure coherent and strategic delivery of services. Irish experience has shown that ensuring lead responsibility for youth justice rests with the ‘children’ rather than the ‘justice’ department ensures greater coherence between youth justice and

wider children’s policy and services. In particular, the mainly progressive direction of national youth justice policy has stemmed from the location of IYJS in the Department of Children and Youth Affairs. In 2005, the recommendation to establish IYJS was welcomed for its potentially radical impact on the delivery of Irish youth justice,<sup>183</sup> and it has largely delivered on this mission. However, learning from Tackling Youth Crime highlights the need for vigilance to ensure that IYJS is strengthened to continue to fulfil its role adequately. In this regard, attention is drawn to the recommendations to place IYJS on a statutory footing, based in the Department of Children and Youth Affairs, to enable it to provide effective leadership to and co-ordination of youth justice in Ireland.<sup>184</sup> Consideration should thus be given to ensuring that the IYJS has sufficient authority and resources to carry out its functions effectively. In particular, consideration should be given to strengthening structures which promote multi-agency co-operation. As has been highlighted throughout this report, greater and more effective systems for co-operation are needed to ensure that the youth justice system as a whole can function effectively. In particular, consideration should be given to structures which allow for greater co-ordination between services which are directly involved in the provision of youth justice services and the mainstream children’s services – particularly in the areas of education and health – that children in conflict with the law need to access to ensure that their needs and rights are properly met.

In addition to the progress achieved and the progress yet to be achieved, a review of the commentary from academics, civil society organisations, and monitoring bodies included significant further recommendations for the development of the Irish youth justice system, which were not covered by Tackling Youth Crime. While these recommendations are too detailed and numerous to elaborate in full, the following themes emerged as being particularly worthy of consideration in the development of future policies and strategy in this area.

<sup>183</sup> Kil Kelly, U., *Youth Justice in Ireland: Tough Lives, Rough Justice* (Dublin: Irish Academic Press, 2006) at p. 51

### Children in Care

Particular concern has been noted with the lack of data on children in care who come into contact with the justice system<sup>185</sup> and in order to address this, a policy mandating co-ordination between Tusla, care providers and An Garda Síochána is recommended.<sup>186</sup> The need for specialised training for professionals working with children in care who come into contact with the justice system has also been highlighted.<sup>187</sup> The Garda Diversion Programme could also usefully give consideration to the needs of children in care as a distinct group.<sup>188</sup> At the same time, it is evident that only a very small proportion of children in state care come into contact with the youth justice system.<sup>189</sup> Thus, while extra supports are clearly needed to meet the particular needs of these children, emphasis should be placed on universal supports and early intervention and prevention to avoid stigmatising these children and net-widening.

### Young Adults

Under the Children Act 2001, only children under the age of 18 are subject to the youth justice system. Law and policy relating to children in conflict with the law, therefore, has not given consideration up to this point of the situation of young adults. There is, however,

a growing recognition that young adults (19 to 23) represent a distinct population within the criminal justice system, and have specific developmental needs.<sup>190</sup> As a result, consideration should be given to extending the protections of the youth justice system to those beyond the age of 18.<sup>191</sup>

### Minimum age of criminal responsibility

Ireland's current age of minimum criminal responsibility has been criticised as "highly illogical",<sup>192</sup> and consideration might thus be given to its revision upwards in line with European norms and the recommendations of the Committee on the Rights of the Child.<sup>193</sup>

### Trial of children for serious crimes

A further gap in the current youth justice policy, it is submitted, is the limited consideration for children's due process rights, and the need to put supports in place to ensure that these rights are adequately protected. This applies in a range of circumstances, including admission to the Diversion Programme, the investigation of offences by Gardaí, in court processes and in relation to the protection of children's privacy and protected disclosures; it is, however, a particular issue when children are tried outside of the Children Court in the

Circuit or Central Criminal Court for serious offences. It has been highlighted that the trial of children in these venues essentially amounts to adult trial,<sup>194</sup> and that consideration needs to be given to ensuring legally mandated protections are provided to children in this context.<sup>195</sup> Supports – especially around independent and language - required to enable children to claim these rights warrant careful consideration.

<sup>184</sup> Kil Kelly, U., "Diverging or Emerging from Law? The Practice of Youth Justice in Ireland" (2014) 14(3) *Youth Justice* 212-225; Kil Kelly, U., "Reform of Youth Justice in Ireland: The 'New' Children Act 2001 Part 1" (2006) 16(4) *Irish Criminal Law Journal* 2 at p.5-6

<sup>185</sup> Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018)

<sup>186</sup> Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018) at p.6

<sup>187</sup> Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018) at p.48

<sup>188</sup> An Garda Síochána, *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme 2015* (Dublin: An Garda Síochána, 2016) at p.26

<sup>189</sup> Carr, N. & Mayock, P., *Children and Young People in Care and Contact with the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2018) at p.28

<sup>190</sup> Costello, L., *Turnaround Youth: Young Adults (18-24) in the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2015)

<sup>191</sup> Irish Penal Reform Trust, *Towards an Innovative, Just, Humane and Effective Penal System – an overview of penal reform priorities 2017-21* (Dublin: Irish Penal Reform Trust, 2017). Costello, L., *Turnaround Youth: Young Adults (18-24) in the Criminal Justice System* (Dublin: Irish Penal Reform Trust, 2015) at p.30; Irish Penal Reform Trust, *Progress in the Penal System (PIPS): A framework for penal reform (2018)* (Dublin: Irish Penal Reform Trust, 2018) at p.30.

<sup>192</sup> Shannon, G., *Tenth Report of the Special Rapporteur on Child Protection* (2017) at p.83-4

<sup>193</sup> Shannon, G., *Eighth Report of the Special Rapporteur on Child Protection* (2014) at p.35-36; UN Committee on the Rights of the Child, *Concluding Observations on the combined third and fourth periodic reports of Ireland (CRC/C/IRL/Q/3-4/Add.1)* 22nd October 2015 at para 72; Irish Human Rights and Equality Commission, *Comments on Ireland's 16th National Report on the implementation of the European Social Charter* (Dublin: Irish Human Rights and Equality Commission, May 2019) at p.23

<sup>194</sup> Kil Kelly, U., *Children's Rights in Ireland: Law, Policy and Practice* (Dublin: Tottel Publishing, 2008) at p.546

<sup>195</sup> Kil Kelly, U., "Detention or Not?" in Association for Criminal Justice Research and Development, *4th Annual Irish Criminal Justice Agencies Conference: "Youth Justice Policy in Ireland – Where to Next?"* (Dublin Castle Conference Centre, 4th July 2017) at p.45

## Summary of Recommendations

### Inter-agency co-operation

- ▶ Take steps to increase effective inter-agency co-operation, including the development of protocols between relevant agencies and professional groups, giving consideration to the introduction of a statutory mandate to underpin inter-agency co-operation in youth justice.
- ▶ Prioritise joint strategies that promote greater collaboration between service providers, agencies and departments so that the needs of children in the community are met.

### Governance

- ▶ Ensure that the objectives under the new youth justice policy, and under other relevant departmental and stakeholder policies, are specific and measurable.
- ▶ Ensure that the Irish Youth Justice Service is equipped to provide effective over-arching leadership in the youth justice sector, including effective co-ordination of youth justice services across the sector. Governance structures which promote more effective inter-agency co-operation should be given special consideration.
- ▶ Review the Children Act in the context of broader review of youth justice policy, to ensure that the legal framework keeps pace with the best available research and evidence.

### Training

- ▶ Ensure all professionals working with children within the youth justice system, including Gardaí, judges, lawyers, and other professionals, receive adequate specialised training on youth justice, child development and children's rights.
- ▶ Promote the training of judges and lawyers working with children in conflict with the law; support the extension of the Practice Direction, and increase access to the Bail Supervision Scheme.

### Resourcing

- ▶ Ensure core youth justice services are adequately resourced, and that resources are effectively targeted to ensure children can access the services that meet their needs.
- ▶ Ensure that the GYDPs operate efficiently and effectively, that all children who need access to the

Projects can do so, and to ensure monitoring and evaluation of the Projects on a regular and ongoing basis.

- ▶ Ensure that capital investment and national policy supports continued reforms in Oberstown.

### Data Collection and Research

- ▶ Improve systems for data collection in the youth justice system.
- ▶ Promote and support the development of further research on the situation and experiences of young people in the Irish youth justice system.
- ▶ Develop interventions which are supported by an evidence base, and ensure interventions are evaluated and monitored to measure effectiveness and compliance with relevant children's rights standards.
- ▶ Increase the level of recorded information about the type and nature of interventions being carried out, and through carrying out evaluations of practice.

### Participation

- ▶ Ensure that the views of children are taken into account in the development of policy and practice in youth justice.
- ▶ Support the meaningful participation of children in decision-making at all stages of the youth justice system.
- ▶ Promote access to effective, multi-disciplinary services in the community, ensuring early intervention where difficulties in a child's life become apparent.
- ▶ Support the Probation Service to promote community-based sanctions.
- ▶ Extend the use of restorative approaches and family conferencing by An Garda Síochána and the Probation Service and evaluate the implementation of these practices.
- ▶ Continue to ensure that the CEHOP model of care is fully integrated into practice in Oberstown consolidating the progress made to date in the care of children deprived of their liberty. Protocols should be developed with external stakeholders to ensure children are adequately supported in returning to their communities.

