

# Shifting Focus: From Criminal Justice to Social Justice

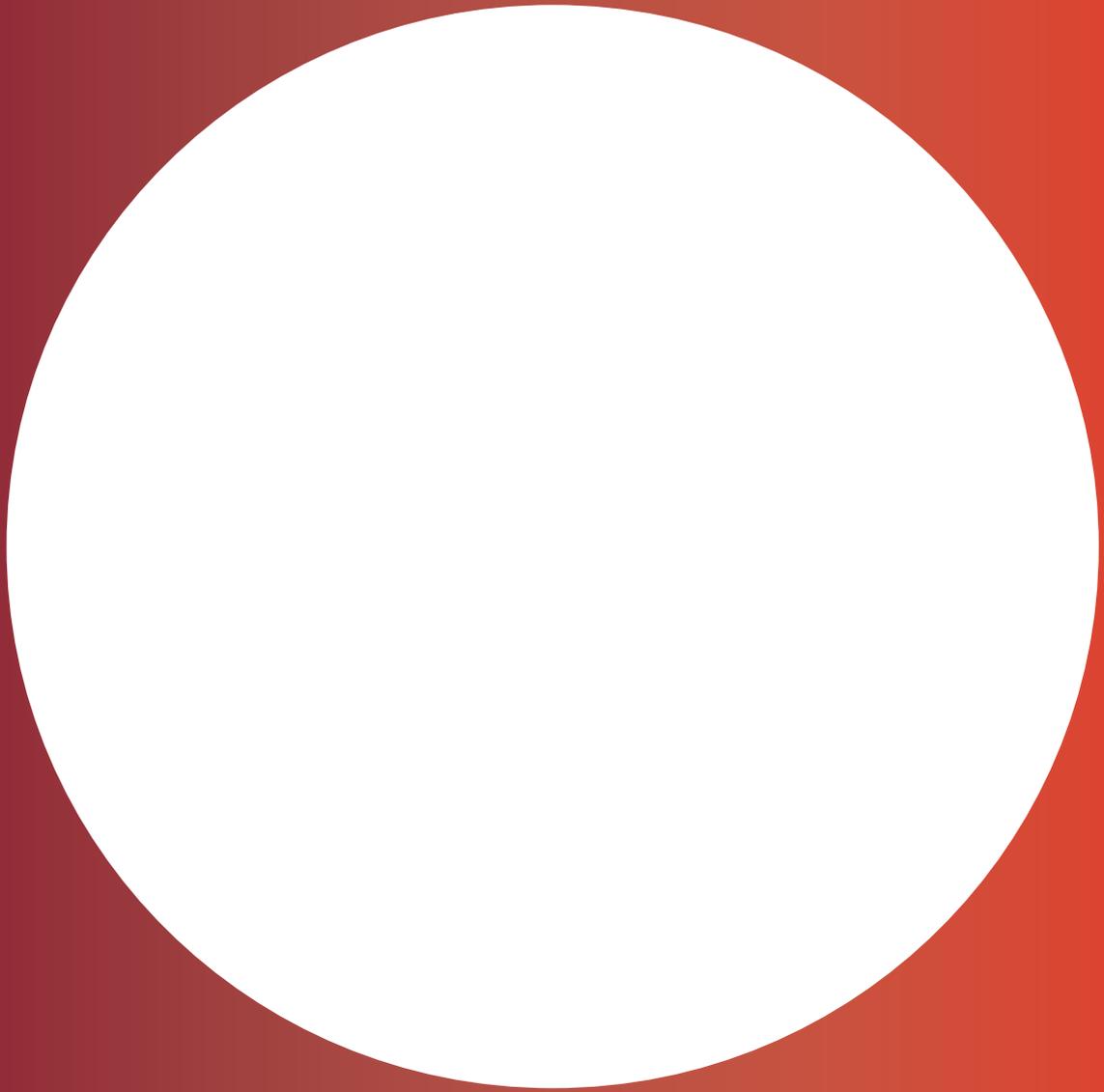
*Building Better and Safer Communities*

Irish Penal Reform Trust

Barnardos

Irish Association of Young People in Care





## WHO WE ARE

*Informed by a shared commitment to combating social injustice, IPRT, Barnardos and IAYPIC have come together to raise awareness of the interconnections between child policy, penal policy and wider social policy. Traditional approaches in Ireland have failed to address the systemic nature of social exclusion, and we believe that a strong case can be made to shift focus and resources to investing in communities and preventing the marginalisation associated with offending behaviour.*

### **Irish Penal Reform Trust**

The Irish Penal Reform Trust is Ireland's leading NGO campaigning for the rights of everyone in the penal system. We campaign for the use of detention as a last resort and for the progressive reform of penal policy in Ireland. IPRT has long argued that prisoners cannot be treated in isolation from the communities from which they come and to which they return, and that penal policy must be connected up to relevant policies in the health and social spheres.

### **Barnardos**

Barnardos' vision is an Ireland where childhood is valued and all children and young people are cherished equally. Barnardos' mission is to challenge and support families, communities, society and government to make Ireland the best place in the world to be a child, focusing specifically on children and young people whose well-being is under threat. Barnardos has over 42 projects working directly with children and families throughout the country.

### **Irish Association of Young People in Care**

IAYPIC is an independent association that works with children and young people who are currently in care or have experience of living in care. IAYPIC's mission is to: advocate at a national and local level for the rights of young people with care experience; organise and amplify the voices of young people with care experience; and to base our advocacy on meaningful engagement with young people, documented data and commissioned research.



Crime cannot be viewed as a social problem in isolation from deeper social and economic issues. Understanding and responding to offending behaviour is a complex issue. There is no one ‘cause’ and no single solution; consequently one-dimensional approaches are unlikely to produce results.

Currently, the Irish criminal justice system is spending increasing and wasteful amounts of scarce resources with poor results in reducing crime, when modest investments in under-resourced communities would have greater positive effects in reducing offending, as well as producing wider social benefits.

In this policy document, IPRT, Barnardos and IAYPIC present the case for making the shift in resources from criminal justice to social justice, thereby creating better communities and a safer society for all.

Our policy position is supported by a study commissioned to examine the role of early intervention and prevention in reducing crime and criminality, drawing on national and international literature: *From Justice to Welfare: The Case for Investment in Prevention and Early Intervention* (CMAAdvice Ltd, April 2010) is available on: [www.iprt.ie](http://www.iprt.ie) or from: [info@iprt.ie](mailto:info@iprt.ie)

This Policy Paper was produced as a platform for the *Shifting Focus: From Criminal Justice to Social Justice* conference, which brought together experts and practitioners working on specific issues and interventions to explore the themes set out here. For a report on conference proceedings, including examples of evaluated prevention and early-intervention programmes, see: [www.iprt.ie/shifting-focus](http://www.iprt.ie/shifting-focus)

## CONTEXT: A PUNITIVE RESPONSE TO UNJUST SOCIETY?

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For years, Ireland has heavily resourced imprisonment as the primary response to criminal offending. The numbers in custody have more than doubled from 2,180 in 1990 to 4,491 in 2010,<sup>1</sup> and the prison population continues to rise by approximately 10% every year. The annual budget for the Irish Prison Service is €374.12m<sup>2</sup>, and an average place in prison for a year costs over €77,222<sup>3</sup>; this compares with a budget of €51.796m<sup>4</sup> for The Probation Service, €2.444m of which is spent on Community Service.

While the numbers of children held in Children Detention Schools have fallen slightly in recent years, high numbers of children and young people continue to come into contact with the criminal justice system every year<sup>5</sup>. Despite Ireland ratifying the UN Convention on the Rights of the Child in 1991, which requires the use of detention as a measure of last resort, children continue to be imprisoned in St Patrick's Institution, and 56% of children detained on remand do not go on to receive a detention order. This raises concern about the extent to which the principles of the Children Act 2001, which emphasises the important role of early intervention and diversion from the criminal justice system, have been fully implemented.<sup>6</sup>

Against the background of increasingly scarce resources and international recognition that prison *doesn't* work – in the words of the Scottish Prisons Commission<sup>7</sup>, “prison may sometimes do good, but it always does harm” – there is an urgent need to consider our unwavering commitment to the punitive, criminal justice model on which our prison system is built. As we continue to count the rising cost – both human and economic – of imprisonment on this and future generations, we want to promote practical discussion and debate about the more effective ways to build safer communities.

## CONTEXT: SOCIAL INJUSTICE AND CRIME

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It is well established that offenders are disproportionately affected by a range of issues. Poverty, unemployment, poor mental health, educational disadvantage, addiction, inadequate family support and experience of residential care and homelessness are all more prevalent among those in the prison system than the general population. For many, these problems are strongly linked and inter-dependent and they frequently relate, directly or indirectly, to their offending. Despite the absence of more longitudinal and comprehensive data, Irish research has established that:

- 1 Education:** Huge proportions of offenders are early school leavers, have been expelled or otherwise excluded from formal education or have had no or little meaningful engagement with the educational system (O'Mahony 1997; ACJRD, 2007);
- 2 Mental Health:** Children in detention experience a disproportionately high rate of mental health difficulties and disorders, and have lower emotional intelligence than non-offending children in the community. Those in detention suffer a range of mental health problems (O'Reilly and Hayes, 2007);
- 3 Substance Addictions:** Addictions to drugs and alcohol are significant problems among offenders and those in prison (National Crime Council, 2002) and most offending is alcohol or drug related (An Garda Síochána, 2010);
- 4 Poverty:** Socio-economic background is a major factor in offending (O'Mahony, 1997; O'Donnell et al, 2007);
- 5 Child Protection:** There is evidence that children with experience of residential care are over-represented in the justice system (Carroll and Meehan, 2007).

Many offenders will present with some or all of these factors – for example it is well established that there is a close correlation between mental health, drug/alcohol dependency and offending. For this reason, a one-dimensional intervention that focuses on a single aspect is unlikely to produce positive, long-lasting results, or indeed to halt an offending cycle. Instead, multi-faceted, complex programmes are necessary to ensure that a blend of approaches fits together in the right way for each individual depending on their stage in the life cycle.

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1 Total number in custody on 29<sup>th</sup> July, 2010. Source: *Sunday Tribune*, 1<sup>st</sup> April 2010 (<http://www.tribune.ie/news/home-news/article/2010/aug/01/prison-population-over-5000-for-first-time>)

2 Irish Prison Service *Annual Report 2009*.

3 Irish Prison Service *Annual Report 2009*. The average cost of holding a person in prison was €92,717 in 2008. The fall in costs is attributed to pay cuts and the recruitment ban, coupled with prisons overcrowding.

4 The Probation Service *Annual Report 2009*.

5 18,519 individual children were referred to the Garda Youth Diversion Programme in 2009 (a decrease of 14% on the previous year) – An Garda Síochána *Diversion Programme Report 2009*;

6 National Crime Council, *Tackling the Underlying Causes of Crime; A Partnership Approach* (2002)

7 'Scotland's Choice' – report of the Scottish Prisons Commission, July 2008.

## THE POTENTIAL FOR PREVENTION & TIMELY INTERVENTION

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Investing in the social and health policies that focus on individuals' needs will not only prevent and reduce crime, it will avoid the human, social and economic cost associated with crime and with imprisonment. As research shows, intervening to support and assist individuals and families at different stages of the life cycle can have positive results. For children and young people, for example, primary interventions should focus on ensuring the family is fully supported, the child's mental health is promoted and his/her involvement in education is prolonged. Investment in early-years education is particularly important, and early intervention has been demonstrated to play a significant role in helping children to break intergenerational cycles of poverty.<sup>8</sup>

**The development and provision of ongoing, consistent and holistic child and family support services in education, health and social services is crucial to ensuring better outcomes for children living with disadvantage. Timely access to the necessary supports can make a significant difference to children's lives and their future opportunities.**

For those on the fringes of contact with the criminal justice system, mechanisms should refer people with mental health and/or addiction problems to social and health services that can provide the necessary counselling and support. Education can help fill the gaps that have emerged in basic literacy and numeracy skills and provide further training. Support with housing can help to secure the necessary permanency that people who experience homelessness lack. For those in the criminal justice system, notably those in prison, contact with the state's agencies should be used to engage health and social services to address underlying problems of addiction, mental health and educational disadvantage, and housing, family and community support must be a priority for reintegration to be a success on release.

These are complex issues and solutions are equally challenging. These approaches require a paradigm shift among law and policy makers – and the public to whom they provide leadership – away from a system that reacts to crime to one that intervenes in a timely manner, to prevent and protect from its effects. **Ensuring that policy reflects these priorities, and that services and resources are in place, requires a commitment to a different way of thinking about offenders and about the crimes that they commit.** This change is one that we believe could make a real difference.

## IN NEED NOT 'AT RISK': SECURING SOCIAL JUSTICE

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Crime prevention policy in many jurisdictions has focused on targeting those found to be 'at risk' of offending with a view to intervening before the risk materialises. Various programmes and interventions have been designed to identify those predisposed towards becoming the next generation of offenders. However, as research shows, such an approach is not without its own dangers; initiatives designed to target those 'at risk' of offending can in themselves have a criminogenic effect. As research now shows, rather than targeting those 'at risk', universal supports that underpin social justice are more likely to have positive effect (McAra & McVie, 2008).

Accordingly, we consider that rather than viewing early intervention as a crime prevention tool alone, ie. one that targets interventions at those 'predicted' or 'at risk' of offending, **Government should, in the first instance, adopt an approach aimed at ensuring equal access to health, education and social services to those in need.** Targeted interventions, where risks have emerged, should be a secondary stage of intervention. Such an approach would not only address the health and related problems that promote disadvantage and marginalise families and communities, it would have the added value of preventing the onset or continuation of criminal behaviour.



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<sup>8</sup> Connolly, P. (2009) *The Benefits of Early Interventions for Children from Socially and Economically Deprived Backgrounds: The Research Evidence*, presentation given at the Barnardos 'Written Out, Written Off' Campaign Launch, Dublin, 13 May 2010

## THE CASE FOR CHANGE

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The case for this shift in emphasis from criminal justice to social justice is strong.

- 1 Effectiveness:** Ireland's criminal justice system is wedded to the concept of prison as punishment and this system is not working. As the exhaustive work of bodies like the Washington State Institute for Public Policy shows, there are endless benefits to be gained from taking more constructive approaches to both adult and youth offending. A focus on the underlying difficulties – mental health, addiction, educational disadvantage, poverty – is demonstrably more likely to be effective in addressing the dreadful human cost of crime.
- 2 Resources:** Against the backdrop of enormous, increasing and endless expenditure on prisons and the criminal justice system as a whole, the case for shifting even a proportion of these resources to a social justice model is undeniable – especially when coupled with the ineffectiveness of the current approach. As research has shown, when specific programmes reduce offending, as well as lessening the social harm of crime, they also save money for the State.

## INVESTING IN COMMUNITIES

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We need Government to adopt a more integrated strategy to ensure that issues of penal reform and criminal justice are addressed in the wider context of building better and safer communities. This is not solely about addressing the 'causes of crime' but rather *investing* in policies of social justice by resourcing the services and supports necessary to address the factors that create disadvantage.

To sum up, the research evidence shows that interventions that support individuals, families and communities can be successful at a number of levels, not least as a means of promoting equal outcomes among children. While many such initiatives come under the guise of 'crime prevention', we consider that the broader model of social justice offers potential for a more constructive and balanced debate on these issues. In short, a shift in focus from criminal justice to social justice makes social and economic sense, working towards building better and safer communities for all.

## A SOUND INVESTMENT

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- **\$12.90 return per dollar invested**  
A US-based longitudinal study, the High/Scope Perry Preschool Study, found that the estimated return to society of investment in preschool education per child (economic return by the age of 40) was \$12.90 return per dollar invested.<sup>9</sup>
- **Invest \$600, save \$15,000**  
In a study that specifically set out to identify "whether there are 'evidence-based' options that can reduce the future need for prison beds, save money for state and local taxpayers, and contribute to lower crime rates," the Washington State Institute for Public Policy found that investing just \$600 in providing early childhood education to the most disadvantaged communities saves society on average \$15,000 per child in lower future crime rates.<sup>10</sup>
- **Spend \$2,400, save \$50,000**  
The same study found that spending \$2,400 in supports and interventions for the families of young offenders can save the taxpayer almost \$50,000 in the longer term by reducing reoffending among that group.
- **Cost comparison: £50,000 or £200,000**  
In the UK, cost-benefit analysis demonstrates that while the average cost to the taxpayer of having a young person in the criminal justice system is £200,000 by the age of 16, less than £50,000 is needed to support a young person to stay out of the system.<sup>11</sup>
- To date, there have been only limited analyses of the effectiveness of interventions in Ireland. A detailed cost-benefit analysis, with particular focus on situations where more than one intervention is in place, building in estimated returns on various combinations of interventions, is critical to the development and planning of social policy.<sup>12</sup>

9 Schweinhart, L.J., Montie, J., Xiang, Z., Barnett, W.S., Belfield, C.R. & Nores, M. (2005) *Lifetime Effects: The High/Scope Perry Preschool Study Through Age 40* (Ypsilanti, MI: High/Scope Press).

10 Elizabeth K. Drake, Steve Aos, and Marna G. Miller, *Evidence-Based Public Policy Options to Reduce Crime and Criminal Justice Costs: Implications in Washington State*, April 2009

11 *Home Affairs Committee – Tenth Report: The Government's Approach to Crime Prevention*, March 2010

12 Such a call has been made in the first report of the Oireachtas Joint Committee on Education and Skills, *Staying in Education: A New Way Forward – School and Out-of-School Factors Protecting Against Early School Leaving*, May 2010

## SEACHANGE: CURRENT POLICY SHIFTS ABROAD

### United States

In the United States, the world's biggest gaoler, it is now accepted that dollars spent on early interventions in high risk communities save multiple amounts down the line. A number of longitudinal studies support this, including a rigorous review of 20 early intervention programmes, carried out by the RAND Corporation<sup>13</sup>, which found that early childhood interventions can generate benefits that exceed the initial programme costs. Evidence on the economic returns from investing in early childhood interventions is particularly strong for programmes that have long-term follow-up with programme participants.

The potential spill-over effects of these early interventions are also emphasised. These include reduced child maltreatment, reduced rate of teenage pregnancy and increased college attendance, lower costs to the child welfare system, more years spent in post primary education and increased life-time earnings with a corresponding increase in tax revenue to government. They also demonstrate the benefits in terms of reduced crime and contact with the criminal justice system. These benefits affect children, parents and descendants with benefits to government and society.

### Scotland

The Edinburgh Study of Youth Transitions and Crime is a ground-breaking longitudinal programme of research on pathways into and out of offending, drawing on data from over 10 years of fieldwork involving a cohort of around 4,300 young people. The report found that to deliver justice, systems need to address four key facts about youth crime: serious offending is linked to a broad range of vulnerabilities and social adversity; early identification of at-risk children is not an exact science and runs the risk of labelling and stigmatizing; pathways out of offending are facilitated or impeded by critical moments in the early teenage years, in particular school exclusion; and diversionary strategies facilitate the desistance process.

The research concludes that the key challenge facing policy-makers and practitioners is to develop a youth justice policy which is holistic in orientation (with interventions being proportionate to need) but which also maximizes diversion from criminal justice.<sup>14</sup>

### England & Wales

The current economic crisis has acted as a catalyst in bringing about a reversal in recent 'tough on crime, tough on the causes of crime' policies in England and Wales.

In March 2010, the cross-party Home Affairs Committee published a new report, *The Government's Approach to Crime Prevention*. The report makes a clear statement on the cost-benefit of prevention and intervention programmes, and concludes: "A more effective long-term prevention strategy must focus on early intervention with young children and their parents."

This report followed on from *Cutting crime: the case for justice reinvestment*, published in January 2010. Based on a two-year inquiry by the cross-party Justice Committee, the report suggests that the current public spending crisis opens up an opportunity for a radical rethink of large-scale spending commitments. The report advocates capping the prison population and investing resources in local education, health, drug, alcohol and community programmes that would be more effective in cutting crime.

In July 2010, the UK government launched an independent review into how early intervention projects can improve the lives of the UK's most vulnerable children. An interim report in January 2011 will detail case studies of successful schemes and recommendations on funding; a final report will be published in May 2011. The review is chaired by Labour MP Graham Allen. On the launch of the review, Children's Minister Sarah Teather said: "Intervening earlier with troubled families can not only prevent children and their parents falling into a cycle of deprivation, anti-social behaviour and poverty but can save thousands if not millions of pounds in the longer term."

<sup>13</sup> Lynn A. Karoly, M. Rebecca Kilburn, Jill S. Cannon, *Early Childhood Interventions - Proven Results, Future Promise*, RAND Corporation 2005

<sup>14</sup> Lesley McAra and Susan McVie, 'Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime', *Criminology and Criminal Justice* May 2010, 10: 179

What Ireland needs now is long-term vision and radical and fresh thinking about this issue. We need to heed what the evidence is telling us and take a co-ordinated approach to tackling social exclusion. In particular, emphasis needs to shift from an almost exclusively punitive reaction to crime to one that is preventive, progressive and ultimately more effective.

- We are calling on Government to commit to evidence-based policies which focus on building safer and stronger communities; these policies should place particular emphasis on prevention and early intervention with regard to social exclusion and its consequences.
- We are calling on Government to make an explicit commitment in policy to address criminal justice within the wider context of the aims of social justice, thereby addressing the causes of crime.
- We are calling on Government to invest in rigorous, independent and long term analyses of the effectiveness of prevention, early intervention and diversionary programmes; such programmes have been demonstrated in other jurisdictions to be of far greater social and economic benefit than criminal sanctions and imprisonment.
- Based on this evidence, Government should commit to diverting a proportion of the justice budget to interventions that address the causes of social exclusion including, but not limited to, the areas of education, health, mental health and substance misuse.
- Coordination of services and of policy is a major challenge. Recent good models have been developed of how services can be coordinated on a local basis, and Government should commit to rolling out these best-practice models in terms of integrated prevention and early intervention programmes on a national basis.

**Working in parallel to this overarching strategy:**

- A large number of Government strategies in related areas, including “A Vision for Change” Report of the Expert Group on Mental Health Policy, the National Drugs Strategy (interim) 2009-2016, and the Ryan Implementation Plan, exist. However, many recommendations in these reports remain unimplemented. Government should commit to expediting implementation of the recommendations in these areas according to the Government’s set timetable.



Furthermore, the overarching strategy must consider the following areas for action:

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## JUSTICE

- Government should develop an integrated crime strategy, centred on crime prevention, and which situates issues of penal reform and criminal justice in the wider objectives of social policy.
- The central ethos of the Children Act 2001 is the diversion of children away from the criminal justice system, with a clear focus on preventive measures and a commitment to address the complex needs of children away from the youth justice system. The implementation of the Act should be fully resourced without delay.
- There is potential for greater coordination between the State criminal justice agencies and community services around crime prevention and support for families and communities; in particular, community-based crime prevention strategies and reintegration supports for released prisoners must be better resourced and co-ordinated.
- Where children in the criminal justice system present with care and welfare needs, the child's welfare must always be the paramount consideration.

## EDUCATION

Educational disadvantage is a critical factor in all forms of social exclusion and one of the strongest risk factors associated with imprisonment; two key factors are literacy and school completion, which directly impact on life chances.

- Government should ensure adequate funding of support teaching services to enable all children to reach their educational potential. This includes the National Educational Psychological Service, allocation of Special Needs Assistants, Resource Teachers and Language Support Teachers.
- Government should guarantee a successor to the *National Childcare Investment Programme (2006-2010)*.
- Access to and collaboration with health care professionals such as child psychologists, speech and language therapists, child and adolescent mental health services, and child welfare services must be improved.
- Government should ensure that future educational disadvantage policies build on the progress of DEIS.
- Early school leavers are identified as one group at risk of or experiencing substance misuse, therefore we need increased capacity for agencies such as the National Educational Welfare Board (NEWB) to target children and young people identified as at particular risk.
- Research has shown that young people in care are more likely to have poor or no qualifications compared to their peers in the general population; there is a need to prioritise education for these young people and consider the need for educational assessment on coming into care.

## HEALTH

Poor health, and in particular poor access to primary care, is a key indicator of all forms of social exclusion; a key priority must be to ensure access to primary care is effectively enjoyed by all children and families.

In addition, considering alcohol is a critical factor in about half of all recorded juvenile crime, holistic early intervention and prevention programmes must be resourced for children

and young people at risk of or experiencing substance abuse.

- The implementation of the Primary Care Strategy and the *HSE Transformation Programme* must be prioritised by allocating resources for the establishment of Primary Care Teams and expansion of community services across all HSE regions.
- Any child under five waiting more than three months for key developmental services such as occupational or speech and language therapy must be able to access these services automatically through the National Treatment Purchase Fund.
- The National Substance Misuse Strategy should incorporate measures to tackle substance misuse aimed at all statutory agencies working with vulnerable groups (ie. NEWB, youth programmes, and Child and Adolescent Community Mental Health Teams); increase the availability and access to under 18's services; and improve support for families with substance misuse related difficulties.
- There is a need for health assessment as part of the general assessment when children are coming into care.

## MENTAL HEALTH

Mental health is a critical factor associated with involvement with the criminal justice system, with high rates of children and adults in detention presenting with a range of mental health needs.

- The implementation of the *Vision for Change* strategy recommendation to improve the primary care services for children and young people with mental health difficulties must be expedited.
- The 78 required Child and Adolescent Community Mental Health Teams must be delivered as promised; these teams should comprise the full complement of clinical and non-clinical staff recommended in *A Vision for Change*.
- Young people in care must be able to access therapeutic interventions where necessary because many have underlying mental health issues.

## CHILD PROTECTION

There is evidence that children with experience of residential care are over-represented in the justice system.

- Additional social workers must be recruited to child protection services with urgency, and more resources allocated to frontline services.
- A comprehensive out-of-hours social work service to protect vulnerable children at times of crisis must be established.
- It must be ensured that all foster carers are vetted before children are placed in their care.
- Young people leaving care are more likely to experience homelessness, addictions, unemployment, mental health issues and the criminal justice system; there is a need to introduce a statutory provision for aftercare services to reduce these risk factors, and develop comprehensive and standardised services across all HSE regions in Ireland.

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September 2010