

# **Report of the Working Group on the future of the Finglas Child and Adolescent Centre**



**Irish Youth Justice Service**

Seirbhís na hÉireann um Cheartas i leith an Aosa Óig

# Report of the Working Group on the future of the Finglas Child and Adolescent Centre

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# Report of the Working Group on the future of the Finglas Child and Adolescent Centre

## 1. Introduction

### **Finglas Child and Adolescent Centre**

FCAC is designated as a children detention school and a remand centre for the detention of young offenders under the Children Act 2001. It is certified to accommodate a maximum capacity of 18 boys aged from 12 to 16 years. Its current operational capacity is 16. The centre carries out specialist assessments of young people remanded in custody and also contains a committal unit. In 2008, FCAC had a budget allocation of €5.85m and employed 97 staff equating to 91.5 whole time equivalent posts. In addition to the above budget and staff allocation, the education facility in the centre, provided by the City of Dublin VEC, employs a Principal and 7 teachers. FCAC is situated on a 14 acre site on Kildonan Road in Finglas. The centre is managed by a Board of Management.

### **Background**

On 4 March 2008 the Government approved proposals to develop a single national children detention school on a State owned site in Oberstown, Lusk, Co. Dublin. This development will incorporate three of the existing four children detention schools which are already located on the site at Oberstown. Finglas Child and Adolescent Centre (FCAC) currently forms an integral part of the detention school system but is the only school not situated in Oberstown. The Government decision of 4 March 2008 approved the establishment of a working group to examine the possible future uses of the FCAC. Details of the membership of the working group are set out in Appendix A attached.

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## 2. Terms of Reference

The Working Group was established in April 2008 with the following Term of Reference:

### **FCAC Working Group Terms of Reference**

In view of the Government Decision to accept the recommendation of the Detention Schools Expert Group that the Oberstown campus provides for the most effective and efficient development arrangement for the future detention schools service, the FCAC Working Group is asked –

In the context of the Children Act 2001, as amended, and the principle that detention will be used as a last resort -

- (i) to establish the gaps, if any, which exist in the provision of detention and high support services to vulnerable children who cross between the protection and welfare services of the HSE and the youth justice system and who cross between the different court jurisdictions, so as to ensure that children have appropriate access to services;
- (ii) to establish a subgroup to examine the future of the Finglas site in accordance with the Government decision on this matter;
- (iii) in the light of the above, to consider the role of FCAC in meeting the needs identified by the Working Group, and
- (iv) to report on these issues by end October 2008.

Consultations, as considered necessary by the Working Group, will take place with appropriate stakeholders.

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## 3. Methodology

The Working Group was established with representatives from the Departments and Agencies with responsibility for the provision of services for offending children and vulnerable children in the welfare and justice systems.

In initial discussions the Working Group decided to examine the areas of assessment services and young people presenting with a mix of both offending behaviour and a high level of welfare needs. The group decided to seek a series of presentations from service providers and stakeholders in these areas to inform their understanding.

Various presentations (detailed in Appendix B) were made to the Working Group followed by discussion of the issues raised.

The Working Group focused on identifying gaps in existing services which could potentially be met through the expertise and resources available in FCAC. The Group decided to address this aspect of its terms of Reference initially before considering the FCAC site.

Subsequent to its discussions on services, the Working Group decided it was unnecessary to establish a separate sub-group to examine the FCAC site and this was instead considered by the Group as a whole.

## 4. Data on Young People in the Care and Justice Systems

The Working Group believes it is important to set in context the number of young people concerned in this report. According to 2006 census data, the number of young people under the age of 18 years was 1,036,034.

### **Children in care**

In 2008 there were a total of 5,347 young people in the care of the Health Service Executive (HSE). This includes all young people in care whether it is foster care, relatives providing foster care or residential care homes or high support or special care. Residential care accounted for around 7% of these young people.

### **Youth offending**

The number of young people detained through the criminal justice system also represents a tiny proportion of all children and small proportion of young people who come in to conflict with the law. In 2008, 21,412 young people were referred to the Garda Juvenile Diversion Programme, 74% of whom were dealt with through the Programme by means of a caution<sup>1</sup>.

2,813 young people appeared before the Children Court in 2007 and just 537 of those received a detention order<sup>2</sup>. This group includes young people aged over 16 who are detained in St. Patrick's

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<sup>1</sup> Annual Report of the Committee appointed to monitor the effectiveness of the Diversion Programme, 2008, An Garda Síochána

<sup>2</sup> Annual Report of the Courts Service, 2007

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Institution as well as those detained in a children detention school.

A total of 124 young people were admitted to children detention schools in 2008, the majority, - 103 - of whom were on remand. 56 young people received assessments while remanded in a children detention school<sup>3</sup>.

## **FCAC**

FCAC has a current operational capacity of 16 beds. The average occupancy in the school in 2008 was 11, which breaks down as, on average, 6 young people on committal and 5 young people on remand. FCAC completed 45 assessments in 2008, equating to an average of just under four young people undergoing assessment at any given time<sup>3</sup>.

The number of young people in detention, and receiving an assessment while detained, represents a very small proportion of young people who come into conflict with the law or enter the care of the State.

## **5. Detention Services for Young Offenders**

### **Existing children detention schools**

There are currently four children detention schools where a young person can be detained by the Courts for a criminal offence. These are:

- Oberstown Boys School, Lusk
- Oberstown Girls School, Lusk
- Trinity House School, Lusk
- Finglas Child and Adolescent Centre

The management, principles and operations of the children detention schools are governed by the Children Act 2001, as amended. The schools provide for the detention of children sentenced to a detention order by the Courts on foot of a criminal conviction. All four schools are also designated as remand centres for the remand in custody of a child charged with a criminal offence.

The detention school model is one of individualised care, education and rehabilitation to reduce the risk of re-offending and promote the positive reintegration of each young person back into his/her community. A safe and secure environment is provided while simultaneously addressing the offences committed by the young person. An individualised programme of care, education, training and therapeutic intervention is offered to each young person within a care focused environment.

### **New National Children Detention School**

The Children Act 2001 states that the detention school model of care, education and rehabilitation will be extended to include all children under 18 years of age ordered to be detained by the Courts. An

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<sup>3</sup> Irish Youth Justice Service

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interdepartmental Expert Group was established in April 2006 to plan for the development of new facilities to meet this objective.

In March 2008, the Government accepted the recommendations of the interdepartmental Expert Group on Children Detention Services and approved the development of new national children detention school on the Oberstown campus in Lusk, Co. Dublin.

The project aims to develop an integrated detention school campus with a total of 167 places, for young people up to age 18, ordered to be detained by the Courts. The first phase of the development is scheduled for completion in 2012. **The development will provide the full range of remand, assessment and detention services, including step-down and aftercare, for all young offenders remanded or detained by the courts.**

In recommending the development of the National Detention Facilities on the Oberstown Campus in Lusk the Expert Group founded its decision on issues such as:

- The site provides clear evidence of being the most effective option in relation to standards of care and services, operational efficiency and security.
- The breadth and range of services available to a critical mass of juveniles, coupled with appropriate design, will balance, if not outweigh, issues of any potential stigma of remanded and committed children being accommodated on the one site.
- It will allow for the possibility of future proofing the site so that it can adapt to future changes without impacting on service delivery.
- Economies of scale and best value for money will be achieved by providing all services on one site.

This development will incorporate three of the existing four children detention schools which are already located on the site at Oberstown. Finglas Child and Adolescent Centre currently forms an integral part of the detention school system but is the only school not situated in Oberstown. This Working Group was established to examine the possible future uses of FCAC in the context of the development of an integrated detention school on the Oberstown campus.

## **Finglas Child and Adolescent Centre**

FCAC was designated as a children detention school and a remand centre for the detention of young offenders, on the commencement of the Children Act in March 2007. Prior to this, FCAC was an industrial school, which accepted young boys placed there for primarily welfare reasons, in addition to young offenders. The Children Act prohibits the remand of a young person to a children detention school if the only reason for doing so is that he or she is in need of care and protection, therefore, the FCAC may no longer accept young people referred by social services.

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At current operational capacity, FCAC can accommodate a maximum of 16 boys aged from 12 to 16 years. The Centre performs three main functions:

- 1) It has an 8 bed committal unit for boys sentenced to a period of detention in a children detention school.
- 2) It provides a remand function for boys remanded in custody by a criminal court.
- 3) It provides an assessment function for boys who are remanded in custody by a criminal court and in respect of whom the court has requested an assessment of his behaviour, needs and risk level.

All young people remanded or committed to FCAC are detained there by court order arising from criminal charges. It is envisioned that all of the FCAC functions will be provided for in the new National Children Detention School currently under development in Oberstown. Therefore, all of these young people will, in the future, be detained in the new facility.

## Conclusion

The new children detention school development at Oberstown will provide remand, assessment and detention services for all young offenders, boys and girls, under 18 years of age. It will provide all of the services currently provided by the FCAC. The Working Group is of the view that the experience and skills of the FCAC staff will form a necessary part of the integrated detention school in Oberstown and recommends that the staff and services in FCAC transfer to the new development.

## 6. Hybrid Role between Care and Custody

The Working Group was asked to identify the gaps, if any, which exist in the provision of detention and high support services to vulnerable children who cross between the protection and welfare services of the HSE and the youth justice system and who cross between the different court jurisdictions, so as to ensure that children have appropriate access to services.

The Working Group did identify a small cohort of young people who come before the criminal courts, including some from a residential care setting, who present with a complex mix of welfare and justice problems. It may sometimes be unclear whether the care or justice systems are most appropriate to address such young people's needs. It has been suggested that a type of hybrid facility could cater for such young people to provide them with a period of stabilisation and to determine their longer term needs.

However, the courts have stressed that there should be a clear division between criminal proceedings and child care proceedings, and that it is impermissible that there should be a hybrid form of civil/criminal proceedings of any form<sup>4</sup>.

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<sup>4</sup> DPP v PT (1999) cited in HSE v DK

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In the seminal judgement on the matter Mr. Justice Mac Menamin said:

Clearly, on the basis of established authority, care must be taken to ensure that the invocation of civil jurisdiction does not stand in the way of the constitutional duty mandated upon courts to exercise their criminal jurisdiction. However, as McGuinness J. [1999] pointed out in the *Director of Public Prosecutions (Murphy) v. P.T [1993]* .... the District Court has a general duty to consider and promote the welfare of an accused minor and to balance and harmonise this duty with the constitutional rights which pertain to an accused in a criminal trial. However, insofar as there may be conflict between general welfare rights of a minor, and rights delineated by the Constitution as being relevant to the trial of offences, it is clear the latter must have priority and prevail. The authority also pointed out the desirability that there should be a clear division between (on the one hand) criminal proceedings which decide on the guilt or innocence of an accused, and (on the other) child care proceedings which make provision for the general welfare and future care and custody of a child”<sup>5</sup>.

It is the view of the Working Group that the development of, and reliance on, appropriate services in both the care and justice systems is the only appropriate way to respond to this difficult cohort of young people. Improved linkages and coordination mechanisms between agencies and services in the care and justice areas should allow each young person’s complex needs to be met, provided that there is a recognition that both services continue to have a responsibility towards that young person.

The National Youth Justice Strategy emphasises the need to develop and improve linkages between children’s services. Objective 1.1.6 commits the IYJS “to work with the OMC, HSE and CAAB to increase the effectiveness and coordinated delivery of youth justice services” at a strategic level. And locally, under objective 4.1.3, the IYJS “will continue to work with the HSE to ensure, on a case by case basis, that children in need of care and protection receive appropriate services”. The Working Group recommends that the National Youth Justice Oversight Group pays particular attention to this cohort of young people in delivering on the above objectives.

The development or use of FCAC or any other centre as a hybrid facility would not fill a gap but rather increase the confusion around responsibilities in respect of such young people. This gap must be addressed through a different way of providing services, not a specialist detention centre.

## Conclusion

The development of FCAC as a hybrid facility for both care and offending young people would not be permissible under law and would not address any gap in services.

The National Youth Justice Oversight Group should pay particular attention to the cohort of young people presenting with a mix of care and justice needs, in delivering on the objectives set out in the National Youth Justice Strategy.

<sup>5</sup> Health Service Executive (Southern Area) -v- S.S. (a minor) [2007] IEHC 189 (sec. 80)

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## 7. Assessments

FCAC provides an assessment function for boys aged 12-16 who are remanded in custody by a criminal court and in respect of whom the court has requested an assessment of the young person's behaviour, needs and risk level. FCAC is the principal provider of this service for boys at present. However, as with other services for young offenders, it is envisaged that the new National Children Detention School at Oberstown will carry out this function.

The Working Group considered whether there was an additional role in the area of assessments which could be provided by FCAC. The Centre itself has proposed that it should have a role as a national assessment centre for both offending and non-offending young people.

In accordance with the Children Act 2001, the Working Group is convinced that a child should only be detained where absolutely necessary and therefore assessments must be provided on a non-residential basis as far as possible. With the exception of young people who receive an assessment while detained in a children detention school or special care unit under the HSE, assessments should be provided in a non-residential setting. The Working Group does not, therefore, see a role for FCAC in the area of residential assessments.

Having examined the range of assessments already available within the care and justice systems, the Working Group concluded that more in-depth work is needed in the area of assessments generally to determine the range of assessments required by the care and justice systems and the most appropriate manner of providing them.

### **Conclusion**

The Working Group recommends that further work be carried out over the next three years (until the new development at Oberstown is complete) to identify and develop the appropriate range of assessment services, for detained children in the new facility at Oberstown and for all other young people, offending or non-offending, in the community.

The Working Group does not see a continuing stand-alone role for residential assessments at the FCAC.

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## 8. FCAC Site

The Finglas Child and Adolescent Centre is located on a 5.6 hectares (approx 14 acres) site on Kildonan Road, Finglas West, Dublin 11 which is owned by the Commissioners of Public Works (OPW).

### Description

FCAC comprises a number of buildings with residential accommodation, education facilities, administration facilities, indoor and outdoor recreation facilities including a swimming pool, staff training facilities and maintenance workshops and outbuildings.

The main structure was built in 1972. Its basic layout and functionality is considered inappropriate for modern needs and does not provide for best practice in children's detention. In particular the location of the residential units on the first floor poses safety and security risks and the lack of integral sanitation in the bedrooms impinges on the young person's privacy and dignity and poses a further security risk.

### Costs – refurbishment and replacement

The OPW recently estimated the cost of bringing mechanical and electrical services at FCAC up to modern standards at approx €450,000 and estimated annual running and maintenance costs into the future at approx €220,000. The swimming pool is in poor condition and in need of major work or replacement – in 2007 the OPW estimated the cost of refurbishment at in excess of €600,000.

Estimates produced by consultant Quantity Surveyors in support of the work of the Expert Group on Children Detention Schools established the cost of developing new detention facilities (48 beds) on the Finglas site at in the region of €70m.

### Valuation

In 2007, the OPW prepared an evaluation report for the site which established an open market value of €21m. The Working Group accepts that the current market value would be substantially lower, though still considerable.

### Conclusion

The buildings on the FCAC site are not suitable for long-term use as children's detention facilities. They would require significant mechanical, electrical and structural work simply to be maintained, even in the short-term, for any purpose. The estimated cost for replacement of the buildings, which would be required for any long-term facilities, is prohibitively high. The Working Group does not see a long-term use for the site in the area of children's detention services and recommends that the site be returned to the OPW to determine its appropriate future use.

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## 9. Conclusions

The Working Group has reached the following conclusions:

1. The new children detention school development at Oberstown will provide remand, assessment and detention services for all young offenders, boys and girls, under 18 years of age. It will provide all of the services currently provided by the FCAC. The Working Group is of the view that the experience and skills of the FCAC staff will form a necessary part of the integrated detention school in Oberstown and recommends that the staff and services in FCAC transfer to the new development.
2. The development of FCAC as a hybrid facility for both care and offending young people would not be permissible under law and would not address any gap in services.
3. The National Youth Justice Oversight Group should pay particular attention to the cohort of young people presenting with a mix of care and justice needs, in delivering on the objectives set out in the National Youth Justice Strategy.
4. The Working Group recommends that further work be carried out over the next three years (until the new development at Oberstown is complete) to identify and develop the appropriate range of assessment services for detained children in the new facility at Oberstown and to all other young people, offending or non-offending, in the community.
5. The Working Group does not see a continuing stand-alone role for residential assessments at the FCAC.
6. The buildings on the FCAC site are not suitable for long-term use as children's detention facilities. They would require significant mechanical, electrical and structural work simply to be maintained, even in the short-term, for any purpose. The estimated costs for replacement of the buildings, which would be required for any long-term facilities, are prohibitively high. The Working Group does not see a long-term use in the area of children's detention services for the site and recommends that the site be returned to the OPW to determine its appropriate future use.

### **FCAC Services**

The Working Group recognises that the services currently provided in the FCAC will, in the long term, be provided within the new National Children's Detention School in Oberstown. However, the existing three children detention schools located there do not currently have sufficient capacity to meet the accommodation needs of the courts. The FCAC will need to continue in operation until such times as the remand, assessment and committal services currently provided there can be provided at Oberstown.

### **FCAC Staff**

The Working Group recognises that the staff in FCAC have a wealth of experience and expertise in child care, managing behavioural problems, delivering offending behaviour programmes, and in particular, in carrying out assessments. They represent a significant number of well trained and well

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qualified people in whom the State has invested heavily and who have invested their time and commitment in working with challenging and difficult young people. It is vital that the youth justice and child care services do not lose this expertise.

The IYJ S should work closely with the staff and management of the FCAC to plan and undertake the transition of staff, expertise, services and resources to the campus in Oberstown. This transition should take account of:

- the need to retain and transfer skills and experience within the IYJS
- the need to consult with staff on the timing, details and manner of the transition
- the need to maintain capacity at the levels required to meet the needs of the courts.

## **Acknowledgements**

The Working Group acknowledges that this endeavour was carried out on a collaborative basis by its members as representatives of the various organisations with a significant interest in ensuring the development of an effective, efficient and humane system of detention, albeit as a measure of last resort. The Working Group acknowledges the detailed presentations made by the management and staff of the Finglas Child and Adolescent Centre on (i) the FCAC assessment approach and (ii) their visions for the future of the centre. The Group further acknowledges the presentations made by the Henrietta Street Youth Encounter Project, the HSE Risk Assessment and Consultation Service, Young Persons Probation and the Irish Youth Justice Service. Finally, the Working Group wishes to acknowledge the hard work and dedication of its secretary, Ms Rachel Sheehan.

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## Appendix A - Membership of the Working Group

### Chairperson

Sylda Langford

Director General, Office of the Minister for Children and Youth Affairs

### Members

Mr. Cormac Carey (replaced Mr. John Thompson)

Sectoral Policy Division, Department of Finance

Mr. Brian Dack

Young Persons Probation, Probation Service

Mr. Brendan Doody

Department of Education and Science

Ms. Bronagh Gibson

Health Information and Quality Authority (formerly Children Acts Advisory Board)

Mr. Ruairí Gogan

Community Programmes Unit, Irish Youth Justice Service

Mr. Charlie Hardy

Office of the Minister for Children and Youth Affairs

Mr. Gerry McKiernan

HSE Dún Laoghaire

Mr. Tony O'Donovan

Child Welfare Advisor, Irish Youth Justice Service

Chief Supt. John O'Driscoll (replaced Chief Supt. Gabriel McIntyre)

Community Relations Section, An Garda Síochána

Mr. Gerry O'Neill

HSE Dublin South City

### Secretary

Ms. Rachel Sheehan

Irish Youth Justice Service

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## Appendix B - Presentations made to the Working Group

The following presentations were made to the Working Group:

- Finglas Child and Adolescent Centre – presentation on assessments
- Finglas Child and Adolescent Centre – presentation of management and staff views on the future of the centre
- Henrietta St. Youth Encounter Project – presentation on the project
- HSE Risk Assessment and Consultation Service – presentation on the assessment service
- Irish Youth Justice Service - presentation on the development of the National Children Detention School
- Irish Youth Justice Service – presentation on assessments
- Young Persons Probation – presentation on the YSL assessment tool

