



An Roinn Sláinte
Department of Health

Working Group to Consider Alternative Approaches to the Possession of Drugs for Personal Use

Report of the Public Consultation

March 2019

The report has been prepared for the use of the Working Group that was established by the Government of Ireland to consider the approaches taken in other jurisdictions to the possession of small quantities of drugs for personal use with a view to making recommendations on policy options to the relevant Ministers.

The Department of Health accepts no responsibility for any information supplied as part of the consultation process and no legal liability arising from the use by others of opinions or data contained in this report. It is expressly stated that no independent verification of any information supplied by others has been made. The Department of Health has used reasonable skill, care and diligence in compiling this report and no warranty is provided as to the report's accuracy.

Contents

Executive Summary	4
1 Introduction.....	8
1.1 Consultation Process	8
1.2 The Current Approach	9
2 Public Consultation- Quantitative Findings	11
2.1 Context	11
2.2 Respondents Profile	12
2.3 Current Approach in Ireland	12
2.4 Alternative Approaches to Simple Possession Offences	14
2.5 Other Approaches for Different Kinds of Drugs	16
2.6 Differences among Respondents	21
2.7 Concluding Comment	24
3 Public Consultation – Qualitative Findings	25
3.1 Context	25
3.2 Word Frequency	25
3.3 Thematic Overview	26
3.4 Concluding Comment	34
4 Views of People Prosecuted for Possession	35
4.1 Methods	35
4.2 Being Found in Possession of Illegal Drugs for Personal Use	36
4.3 Concluding Comment	44
5 Stakeholder Organisations	45
5.1 Referral to a Drug Education and Awareness Programme	45
5.2 Referral to a Drug Treatment Service	46
5.3 Responses for Different Types of Drugs	46
5.4 Responses for Subsequent Simple Possession Offences	46
5.5 Implementing Alternative Approaches in Ireland	47
5.6 Concluding Comment	48
6 Conclusions	49
Appendix 1	50
Appendix 2	61

Executive Summary

Strategic action 3.1.35 of the national drug and alcohol strategy '*Reducing Harm, Supporting Recovery: A health-led response to drug and alcohol use in Ireland 2017-2025*'¹ committed to establishing a Working Group to consider the approaches taken in other jurisdictions to the possession of small quantities of drugs for personal use. The Working Group was established in November 2017. To inform its work a consultation process on the possession of illegal drugs² for personal use (simple possession) in Ireland was undertaken. This report provides an overview of the findings from that consultation process. It draws on the information received from an online questionnaire open to the public, focus groups with people who have been prosecuted for a simple possession offence, and an open policy debate with stakeholder organisations.

Online questionnaire

Over 20,000 submissions were made through an online questionnaire over a six week period between 31 May and 13 July 2018. This was the highest response to any public consultation in the Department of Health.

The sample was self-selected and therefore is not a representative sample of Irish society. The overall finding was that the vast majority of respondents would support the removal of criminal penalties for the offence of simple possession which is contained within Section 3 of the Misuse of Drugs Act (1977)³. Eighty eight per cent of respondents did not agree with the current approach that people found in possession of illegal drugs for personal use can be prosecuted before the courts and, if convicted, receive a criminal conviction. A further 6% were not sure if they agreed with current approach and only 6% agreed with the current system. Nearly 90% of respondents indicated that they would be in favour of removing these criminal penalties.

In examining people's views of the current approach, it was found that:

- 97% agreed that it can affect a person's future chances of getting a job;
- 96% agreed that it can affect a person's chances of travelling to certain countries;

¹ Department of Health. Government of Ireland. 2017. *Reducing Harm, Supporting Recovery: A health-led response to drug and alcohol use in Ireland 2017-2025*. Available at: <https://health.gov.ie/wp-content/uploads/2017/07/Reducing-Harm-Supporting-Recovery-2017-2025.pdf>

² Throughout the report the term 'illegal drugs' is used to refer to substances that are scheduled under the Misuse of Drugs Act, 1977. Under this Act simple possession of a scheduled substance is a criminal offence. Simple possession is not a crime under the Criminal Justice (Psychoactive Substances) Act, 2010.

³ <http://www.irishstatutebook.ie/eli/1977/act/12/enacted/en/print#sec3>

- 9% agreed that the current approach of criminal penalties prevents or reduces drug use.

If an alternative approach which removed criminal penalties were to be introduced:

- 94% agreed that it would save time and resources for the Gardaí and Courts;
- 81% agreed that it would encourage people to seek treatment for drug addiction.

Although there were some differences observed by gender and previous exposure to illegal drugs, this strong support for the removal of criminal penalties was evident across all groupings.

Respondents thought that different drug types warranted different responses. This was reflected in the proportion of respondents who thought that 'no action' should be taken when a person is found in possession of a particular drug for personal use: 56% for cannabis; 23% for Ecstasy/MDMA; 13% for cocaine, and 5% for heroin. The range of actions considered appropriate tended to involve a higher level of intervention as they moved through the drugs from cannabis to heroin. For example, referral to a drug treatment service was considered appropriate by: 3% for cannabis; 8% for Ecstasy/MDMA; 16% for cocaine; and 32% for heroin.

The online questionnaire concluded with an open-ended question that invited participants to provide "any other feedback" - 5,353 respondents did so. Responses covered a wide range of issues including: the form and structure of the questionnaire; the public consultation process itself; issues related to drug use in general and the people who use them; and views and experiences related to the possession of drugs for personal use. The range and content of the feedback reflected the diverse views on how best to address the associated issues. Responses supported the view that criminalising people who use drugs causes harm to the individual, their families and their communities. It was associated with stigmatising and marginalising people who were in need of help and support not punishment. Decriminalisation, legalisation and regulation were identified as alternative approaches. In some cases respondents did not want personal possession decriminalized because it was felt that it could make the drug situation in Ireland worse.

Views of people who have been prosecuted for possession

There was strong consensus among those who had been prosecuted for simple possession offences that the current approach should be changed. It was felt that the current system had a negative impact on their psychological wellbeing, their families, and their long-term life chances. The nature of drug use was complex and criminalising those found in possession

was not considered helpful. Where use was not perceived to be causing any problems for the person, they did not believe that the substance they chose to consume to relax or to socialise should result in them being prosecuted and/or receiving a criminal conviction. It was felt that a substantial proportion of Irish society use illegal drugs in this way and it is not sensible to categorise all of them as criminals. Where drug use was seen as problematic or a person is addicted to drugs, they were perceived to need support rather than punishment. Prosecuting for drug possession can compound some of the underlying factors that lead to using drugs in the first place.

There was a perception that not everyone is treated equally under the current approach and social class was perceived to be a factor in the likelihood of being found in possession and prosecuted. Decriminalisation was seen as a positive alternative, with participants drawing on the experiences of other jurisdictions. However, some believed that the approach adopted should not differ substantially from how alcohol, tobacco and medicines are treated and that all drugs should be legalised and regulated. There was consensus that the response to drugs should always be based on increasing awareness and health interventions and that criminal penalties have little impact on the pervasiveness of drugs through society. The overall message was that people experiencing problems with their drug use who had not committed any crime, other than being in possession of an illegal drug, needed support and not punishment.

Outcome of the open policy debate

The purpose of the open policy debate was to explore how an alternative health-led approach could operate in practice. Seventeen representatives from stakeholder organisations and individuals participated in roundtable discussions. The majority of participants felt that the decision on an appropriate referral should take into consideration the circumstances of the individual concerned and should not be determined by the specific substance which they were found to possess. Gardaí should remain the first point of intervention, after which the individual would be referred for an assessment where they can be referred onward to an appropriate treatment when required. This assessment should be made by a trained health professional or interdisciplinary panel and should occur as close to the local community as possible. Although treatment should always remain an option, it should never be coerced. Some participants were of the view that subsequent civil or administrative penalties may be applied if people do not comply with the referral or advice that they receive. A minority of participants were in favour of retaining criminal penalties for people who are repeatedly found to be in possession of illegal drugs and refuse to comply with the referral or recommendations.

Summary

In summary, throughout the different strands of consultation that fed into this process, there was strong support for a change in the approach to simple possession offences in Ireland. Although there was some variation as to how participants thought a decriminalised approach could be implemented, there was overwhelming support for removing criminal penalties. A majority of those who participated in the consultation process were of the view that criminalising drug use does not prevent or reduce drug use, and they supported a more health-centred approach which would encourage people to seek treatment for addiction. Those participating in the online questionnaire were of the view that different drugs required different approaches: they thought that the appropriate response to possession of cannabis was no action, whereas a referral to drug treatment was appropriate for possession of heroin. The participants of both the focus groups and the open policy debate thought that the response should be determined by the circumstances of the individual and not by the type of drug consumed.

1 Introduction

This report provides an overview of the findings from the consultation process on the possession of illegal drugs⁴ for personal use. It draws upon the views of members of the public, people who have been prosecuted for simple possession offences and representatives of stakeholder organisations.

1.1 Consultation Process

*'Reducing Harm, Supporting Recovery: A health-led response to drug and alcohol use in Ireland 2017-2025'*⁵ is Ireland's national strategy on drug and alcohol misuse. It is an integrated public health approach to the harmful or hazardous use of psychoactive substances, including alcohol and illegal drugs. The strategy embraces a partnership approach among a range of Government departments and agencies, along with the community and voluntary sectors.

In light of the 2015 Report of the Joint Committee on Justice, Defence and Equality on a Harm Reducing and Rehabilitative approach to possession of small amounts of illegal drugs⁶, strategic action 3.1.35 of *'Reducing Harm, Supporting Recovery'* committed to establish a Working Group to consider the approaches taken in other jurisdictions to the possession of small quantities of drugs for personal use. Minister of State for Health Promotion and the National Drugs Strategy, Catherine Byrne T.D., announced the establishment of this Working Group in November of 2017.

To inform the Working Group's deliberations, a wide-ranging and comprehensive public consultation was undertaken by the Drugs Policy Unit at the Department of Health to engage with the public, service users (including people who use drugs and may avail of services in the future), families, communities, representative groups and organisations, elected representatives and other interested parties. There were three strands to the consultation process: an online questionnaire, focus groups with people who had been prosecuted for the possession of drugs for personal use, and an open policy debate with relevant stakeholder organisations.

⁴ Throughout the report the term 'illegal drugs' is used to refer to substances that are scheduled under the Misuse of Drugs Act, 1977. Under this Act simple possession of a scheduled substance is a criminal offence. Simple possession is not a crime under the Criminal Justice (Psychoactive Substances) Act, 2010.

⁵ Department of Health. Government of Ireland. 2017. *Reducing Harm, Supporting Recovery: A health-led response to drug and alcohol use in Ireland 2017-2025*. Available at: <https://health.gov.ie/wp-content/uploads/2017/07/Reducing-Harm-Supporting-Recovery-2017-2025.pdf>

⁶ Joint Committee on Justice, Defence and Equality. 2015. *Report of the Committee on a Harm Reducing and Rehabilitative approach to possession of small amounts of illegal drugs*. Available at https://data.oireachtas.ie/ie/oireachtas/committee/dail/31/joint_committee_on_justice_defence_and_equality/reports/2015/2015-11-05_report-on-a-harm-reducing-and-rehabilitative-approach-to-possession-of-small-amounts-of-illegal-drugs_en.pdf

The online questionnaire was open from 31st May - 13th July 2018 inclusive and was promoted widely through national and social media platforms and received substantial attention across media channels and in public discourse. The sample is self-selected and therefore is not a representative sample of Irish society. Across the six week period, a total of 20,813 submissions were received that included a response to at least one of the consultation questions. This was a record-breaking consultation for the Department of Health. The quantitative findings from this questionnaire are reported on in Chapter 2 and the qualitative data in Chapter 3.

Once the online questionnaire had closed, two focus groups were held to consult further with people who had been prosecuted for the possession of illegal drugs for personal use. These focus groups allowed for qualitative information to be gathered regarding the experiences of people who had been affected by the current system, including the context surrounding their arrest and the impact that the prosecution had on their lives. Participants for the first focus group were recruited with the assistance of stakeholder groups that work with people who use illegal drugs. Participants for the second focus group were identified through submissions received via the online questionnaire. In all, fifteen people participated in these focus group discussions. The findings from the focus groups are reported in Chapter 4.

The third and final strand of the consultation process was an Open Policy Debate that was held in order to get a better understanding of the views of relevant stakeholder organisations regarding how an alternative approach should work in practice within the Irish context. Representatives from organisations who work in the area of substance misuse were invited to participate in the discussion, as well as individuals who had requested a meeting with the Working Group. In all, 40 were invited and 17 participated in the event. The roundtable discussion format allowed for a diversity of views and suggestions to be put forward. The findings are reported in Chapter 5.

Chapter 6 summarises the main findings of the three strands of consultation.

1.2 The Current Approach

In advance of reporting the findings it is important that the reader be aware of the current approach and understand the definition of decriminalisation. A description of Ireland's current approach to possession for personal use accompanied the online questionnaire element of the consultation:

In Ireland, people found in possession of illegal drugs for personal use can be prosecuted before the courts and, if convicted, receive a criminal conviction. Depending on the nature of the drug and other factors, the sentence may consist of a fine or a term of imprisonment, although the offender may also be given the benefit of the Probation

Act (1907). In the Misuse of Drugs Act (1977), there is a difference between 'possession for personal use' and possession with 'intent to supply'. However, the Act does not specify, in terms of either weight or monetary value, how much of a particular drug must be found in a person's possession before it will be assumed to have been for sale or supply, as opposed to being for personal use only. A court will have regard to the amount of the drug seized and the surrounding circumstances.

As context for respondents, a description of what is meant by decriminalisation was also made available:

Although there is no universal agreement on terms, the approaches can be understood as different levels of offence. The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) define decriminalisation as when the status of offence is reclassified as noncriminal so that although it is still prohibited and will be stopped by police and punished, it is no longer considered criminal. They also describe depenalisation, which results in less penalisation of the criminal offence than before. Both depenalisation and decriminalisation refer to changes in the legal status and are often used to describe possible options for changing a country's response to offences related to drug use.

2 Public Consultation- Quantitative Findings

2.1 Context

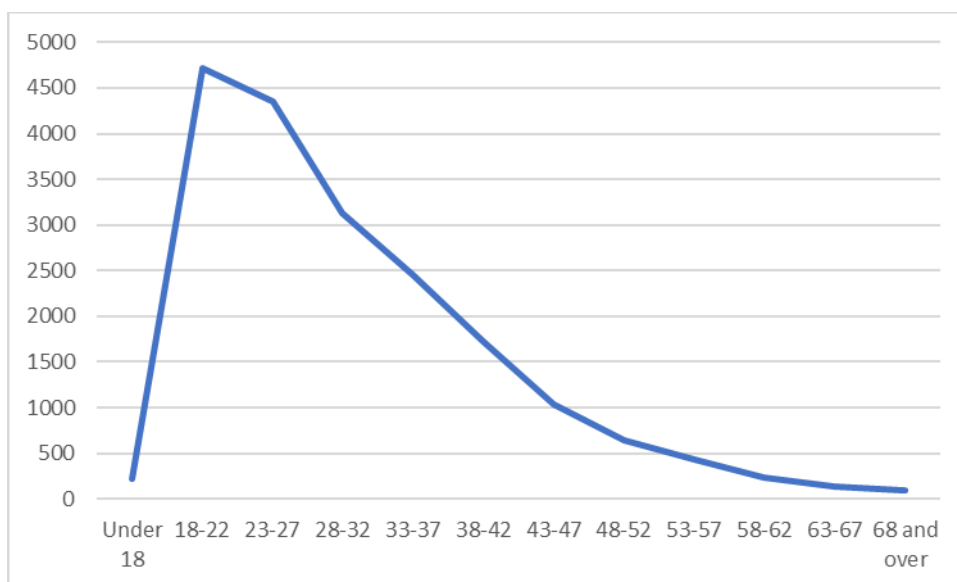
The purpose of the online questionnaire was to engage with the public, individuals and organisations to obtain their views on the current and alternative approaches to the possession of illegal drugs for personal use in Ireland. In order to maximise the number of people who could provide their views whilst still ensuring that the information received could be collated in an efficient and effective manner, the online questionnaire was designed so that multiple submissions could be made from the same computer. This meant that addiction services, and other people or organisations were able to facilitate others to make a submission if they were unable to do so themselves, for reasons such as a lack of internet connectivity or literacy problems.

All interested people were invited to make a submission using this method, and due to the sensitive nature of the topic, respondents were able to answer the questions anonymously. This method of sampling means that the responses received should in no way be considered representative of Irish society, but rather reflects the views of people who took an interest in the issues raised and wanted to make their views known to the Working Group. Across a six week period, there was a total of 22,149 responses to the questionnaire, of which over a thousand provided no response to any of the consultation questions. Therefore, a dataset of 20,813 responses or submissions have been included in the analysis.

In all, there were six sections to the online questionnaire (see Appendix 1). The first section provided information on the purposes of the public consultation and sought informed consent before respondents could proceed to the substantive questions. Section 2 included two questions that were designed to elicit respondents' views on the current approach to the possession of illegal drugs for personal use in Ireland. Section 3 focused on alternative approaches. Section 4 focused on what interventions respondents thought would be appropriate for a person found in possession of illegal drugs, presenting a series of options from which the respondents could select. The fifth section asked about the respondents' gender, age, and the use of illegal drugs in their personal network. Categories were provided to capture their own experiences in relation to drugs, including whether they had ever used them; if they worked in an organisation that addresses drugs-related issues; if they had been prosecuted for simple possession offences; or if they were a member of a family that had been affected by drugs. The final part of this section enabled respondents to provide qualitative data in the form of an open text box for further feedback and comment. The final section of the online questionnaire thanked respondents for their participation and informed them that the Working Group may wish to consult further as part of their deliberations. If respondents wished to be considered for further consultation, they were asked to provide contact details and were assured that all information provided would remain confidential.

2.2 Respondents Profile

There was a diverse range of respondents to the online questionnaire; two-thirds were male and one-third female. Graph 1 shows the wide range of ages of respondents; the average age was 22.



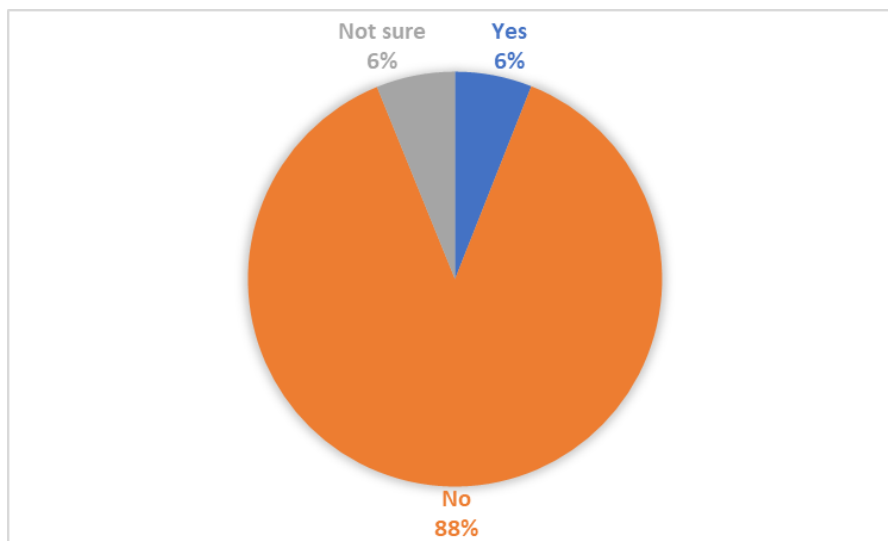
Graph 1: Age of respondents

Respondents were asked about their history of using illegal drugs and 17,710 respondents answered this question: 37% had used drugs on many occasions; 45% had used drugs on only a few occasions while 18% indicated that they had never used illegal drugs.

While data was not collected on respondents' occupations, some chose to report it in the open-ended question. Feedback was received from: third level students, social workers, those working in schools, the healthcare sector, An Garda Síochána, the criminal justice system and other industries and sectors.

2.3 Current Approach in Ireland

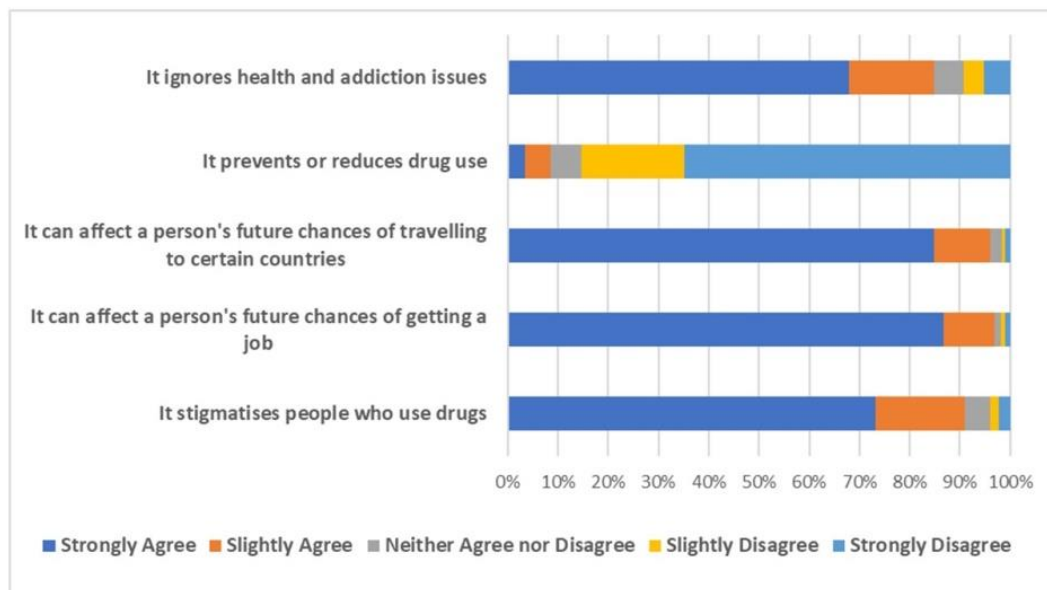
In the first question, respondents were asked whether they agreed with the current approach that can prosecute people before the courts if they are found to possess illegal drugs for personal use (see section 1.3 for explanation of the current approach). Of the 20,768 responses to this question, only 6% indicated that they were in agreement, 6% were unsure and the remaining 88% indicated that they did not agree with the current approach in Ireland.



Graph 2: Do you agree with the current approach that can prosecute people before the courts if they are found to possess illegal drugs for personal use?

Respondents were then asked to consider some of the main reasons that have been put forward about the current approach that can prosecute people before the courts if they are found in possession of illegal drugs and to indicate their level of agreement to five statements ranging from 'strongly agree' to 'strongly disagree' (see graph 3 below).

The statement that received the most agreement was that "it can affect a person's future chances of getting a job" to which 97% of respondents either strongly or slightly agreed. This was followed closely by "it can affect a person's future chances of travelling to certain countries" with 96% of responses agreeing. Ninety-one per cent agreed that "it stigmatises people who use drugs", and 85% agreed that it "ignores health and addiction issues". The only statement that did not receive widespread support was that "it prevents or reduces drug use", with only 9% of responses either strongly agreeing, or slightly agreeing.



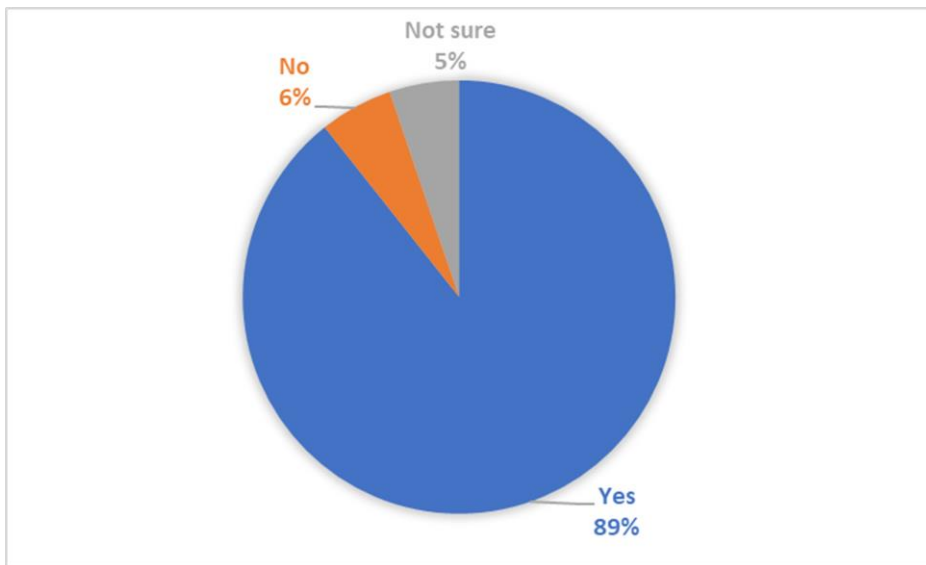
Graph 3: When thinking about the current approach do you agree or disagree with the following statements?

In all, the submissions received to these questions regarding the current approach indicate that a majority of those who responded to the online questionnaire are not in favour of the current approach that can prosecute people who are found in possession of illegal drugs for personal use.

2.4 Alternative Approaches to Simple Possession Offences

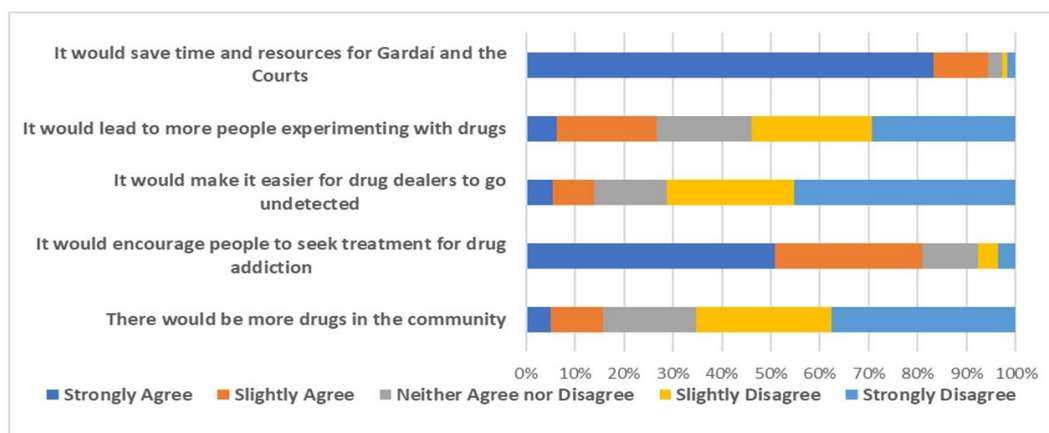
The third section of the questionnaire focused on alternative approaches for simple possession offences. A brief summary of alternative approaches such as ‘decriminalisation’ and ‘depenalisation’ was provided (see section 1.3 of this report), and then respondents were asked whether they would be in favour of not prosecuting people before the courts for possessing illegal drugs for personal use.

Eighty nine per cent of the 20,349 responses to this question indicated that they would be in favour of removing criminal penalties for possessing illegal drugs for personal use. Of the remaining responses, 5% were not sure, and 6% indicated that they would not be in favour of removing criminal penalties for the possession of illegal drugs for personal use (see graph 4 below).



Graph 4: Are you in favour of removing criminal penalties for possessing illegal drugs for personal use?

Following this, respondents were then prompted to consider some of the main arguments surrounding the removal of criminal penalties for possessing illegal drugs for personal use and to consider the likelihood of a range of outcomes. The statement that received the most agreement was that it “would save time and resources for Gardaí and the Courts” with 94% of responses agreeing either strongly or slightly. This was followed by 81% of responses agreeing that it “would encourage people to seek treatment for drug addiction”. Most responses did not agree with the remaining three statements. Just over a quarter of responses (27%) agreed that removing criminal penalties “would lead to more people experimenting with drugs”, with 54% disagreeing, and a sizeable 20% neither agreeing nor disagreeing.



Graph 5: If Ireland removed criminal penalties for possessing illegal drugs for personal use, do you agree or disagree with the following possible outcomes?

In relation to whether there “would be more drugs in the community”, or that removing criminal penalties “would make it easier for drug dealers to go undetected”, 65% of responses disagreed that there would be more drugs in the community, and 71% disagreed that it would make it easier for drug dealers to go undetected.

In all, the responses received to these questions regarding the removal of criminal penalties for the possession of illegal drugs in Ireland indicate that a strong majority of those who responded to the online questionnaire would be in favour of such action. In particular, respondents are of the view that it would save time and resources for the criminal justice system, specifically for Gardaí and the Courts and that removing criminal penalties would encourage more people to seek treatment.

2.5 Other Approaches for Different Kinds of Drugs

The next section of the questionnaire asked respondents to consider appropriate responses for people found in possession of illegal drugs for personal use. There were five questions in total, each of which referred to a different type of substance. Respondents could select all options they thought would be appropriate for each type of substance, and therefore there were more responses selected than overall number of respondents.

2.5.1 CANNABIS

When respondents were asked what they thought should happen to a person found in possession of cannabis for personal use, over half of the responses (56%), indicated that there should be no action (table 1 below). The next most commonly selected action at 14% was ‘referral to a drug education and awareness programme’. ‘A caution or warning’ was the third most commonly selected option with 11% of responses. All of the remaining options received far less support, ranging from 1% thinking that people found in possession of cannabis for personal use should be prosecuted before the courts, to 5% thinking that they should receive an on-the-spot fine that would be similar to a minor driving offence.

Respondents also had the option of proposing ‘Some other action’, and an open textbox was provided for them to submit their views. In all, 670 responses selected this option and opinion varied substantially in the suggestions proposed. Many suggested that cannabis should be legalised, and some were of the view that those found in possession for personal use should receive a much harsher sentence than they do currently, with a small number advocating violence. Although there is some variation of opinion, it is clear that most respondents believe the penalty for the possession of cannabis should be substantially reduced if not eliminated.

Answer	Count	Percentage
No action	15,673	55.8%
A caution or warning	2980	10.6%
Referral to a drug education and awareness programme	4012	14.3%
Referral to a drug treatment service	969	3.4%
Participate in a community engagement programme	1038	3.7%
An on-the-spot fine (similar to a minor driving offence)	1360	4.8%
Increasing penalties for repeated offences	1089	3.9%
Prosecuted before the courts	252	0.9%
Don't know	59	0.2%
Some other action (please name this)	670	2.4%
Total	28,102	100%

Table 1: What do you think should happen to a person found in possession of Cannabis for personal use?

2.5.2 ECSTASY OR MDMA

In relation to a person found in possession of ecstasy or MDMA, the most frequently occurring response, at 27%, was that they should be referred to a drug education and awareness programme. The next most selected option at 23% was that there should be no action taken. A caution or warning was the third most commonly selected option, with 17% (table 2 below).

Opinion varied substantially in the suggestions proposed under 'some other action', with many people suggesting harm reduction information or educating people on the risks. A number of responses suggested that the drugs should be tested in order to determine the purity and strength of the substance. Others thought that there should be no penalty if they provide details of who supplied them with the drugs. There was a wide range of opinion expressed through the submissions.

Answer	Count	Percentage
No action	8060	23.2%
A caution or warning	5957	17.2%
Referral to a drug education and awareness programme	9214	26.6%
Referral to a drug treatment service	2802	8.1%
Participate in a community engagement programme	1721	5.0%
An on-the-spot fine (similar to a minor driving offence)	2673	7.7%
Increasing penalties for repeated offences	2585	7.5%
Prosecuted before the courts	903	2.6%
Don't know	111	0.3%
Some other action (please name this)	662	1.9%
Total	34,688	100.0%

Table 2: What do you think should happen to a person found in possession of Ecstasy/MDMA for personal use?

2.5.3 COCAINE

In relation to what respondents thought should happen if a person is found in possession of cocaine for personal use, the most commonly selected option was for referral to a drug education and awareness programme, at 28% of all selected options. Following this, referral to a drug treatment service was selected the most at 16%, followed closely by a caution or warning at 14% and no action at 13% (table 3).

In relation to the suggestions put forth through the selection of 'some other action', as with the other substances responses varied substantially in the severity of responses. Several people stated that the drug should be confiscated; with others suggesting that they should be able to avail of drug-testing in order to determine the strength and purity. A few respondents called for more severe penalties such as a mandatory prison or death sentence. Others thought that the person should be subject to a fine, the amount of which should be calculated in proportion to their income. Others thought that similarly to alcohol, consumption in public should be banned, but there should be no action if people are not consuming it in private.

Answer	Count	Percentage
No action	5238	12.8%
A caution or warning	5645	13.8%
Referral to a drug education and awareness programme	11,215	27.5%
Referral to a drug treatment service	6542	16.0%
Participate in a community engagement programme	2624	6.4%
An on-the-spot fine (similar to a minor driving offence)	3571	8.8%
Increasing penalties for repeated offences	3777	9.3%
Prosecuted before the courts	1491	3.7%
Don't know	148	0.4%
Some other action (please name this)	549	1.3%
Total	40,800	100.0%

Table 3: What do you think should happen to a person found in possession of Cocaine for personal use?

2.5.4 HEROIN

For those found in possession of heroin for personal use, the most commonly selected option, at 32% of all selections was referral to a drug treatment service. Following this, referral to a drug education and awareness programme received 25% of all selected options. The third most commonly selected option, at 11% was to participate in a community engagement programme. Only 5% of all options selected to this question thought that 'no action' would be appropriate.

Suggestions put forth under ‘some other action’ included that personal development and mental health supports would be beneficial. There were a few suggestions that a GP-led service should supply users with prescribed heroin while encouraging them into rehabilitation, which would remove the need for crime to support their habit. Others believed that those found in possession of heroin should be referred to a supervised drug consumption facility. Some were of the view that social welfare payments should be cut for anybody found in possession of heroin. There was a minority of respondents who suggested life imprisonment or the death penalty.

Answer	Count	Percentage
No action	2254	4.8%
A caution or warning	2954	6.3%
Referral to a drug education and awareness programme	11,778	25.1%
Referral to a drug treatment service	15,218	32.4%
Participate in a community engagement programme	5235	11.1%
An on-the-spot fine (similar to a minor driving offence)	2331	5.0%
Increasing penalties for repeated offences	3990	8.5%
Prosecuted before the courts	2452	5.2%
Don't know	133	0.3%
Some other action (please name this)	645	1.4%
Total	46,990	100.0%

Table 4: What do you think should happen to a person found in possession of Heroin for personal use?

2.5.5 OTHER ILLEGAL OR CONTROLLED DRUGS

In relation to other illegal or controlled drugs, the most commonly selected option at 27% was for referral to a drug education and awareness programme with referral to a drug treatment service being the second most frequently selected option at 18%.

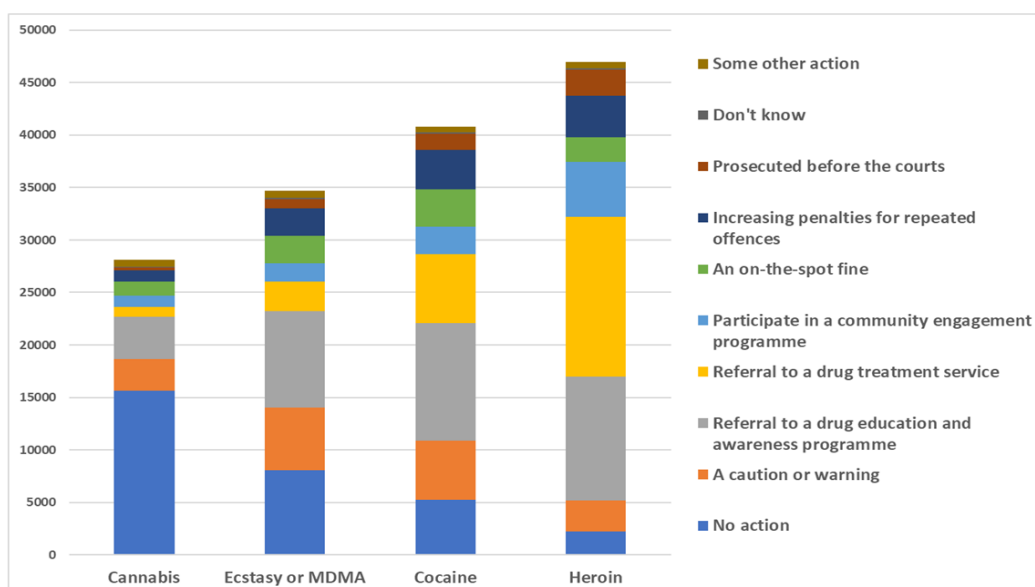
Of those who selected ‘some other action’, many stated that it depended on the drug. For example, some expressed the view that there should be no action taken for those found in possession of magic mushrooms, whereas possession of Rohypnol or other so-called ‘date rape’ drugs or lethal substances should be prosecuted before the courts. Similarly, many respondents highlighted the importance of considering the effects of substances prior to determining the appropriate response, with particular regard for the potential for harms to be caused. For example, many people thought that drugs that are perceived to be highly addictive and cause substantial health harms such as crack cocaine and crystal meth should be handled in a similar way to heroin, while synthetic drugs such as LSD and ketamine should be handled similarly to MDMA, and naturally occurring drugs such as magic mushrooms should be addressed similarly to cannabis.

Answer	Count	Percentage
No action	5493	13.1%
A caution or warning	5976	14.2%
Referral to a drug education and awareness programme	11,154	26.5%
Referral to a drug treatment service	7433	17.7%
Participate in a community engagement programme	3212	7.6%
An on-the-spot fine (similar to a minor driving offence)	2584	6.1%
Increasing penalties for repeated offences	1214	2.9%
Prosecuted before the courts	2669	6.3%
Don't know	1330	3.2%
Some other action (please name this)	1013	2.4%
Total	42,078	100.0%

Table 5: What do you think should happen to a person found in possession of Other Illegal or Controlled Drugs for personal use?

2.5.6 COMPARING RESPONSES TO DIFFERENT TYPES OF DRUGS

In graph six below, the options that were selected for the four named substances (cannabis, ecstasy/MDMA, cocaine and heroin) are combined in order to provide an overview of how they compare to each other. It is clear that a wider range of responses were considered appropriate for heroin, particularly when compared to cannabis. In contrast, less options were selected for cannabis, suggesting that more respondents were of the view that no action should be taken if a person is found in possession of this substance (as indicated by the dark blue colour at the base of the graph's columns).



Graph 6: Comparison of Selected Responses to the Different Drug Types

It is clear from the comparison that most respondents were of the view that different drugs may require different responses. Referral to a drug education and awareness programme was considered an appropriate response for most drugs; however less people saw the value of a community engagement programme, irrespective of the type of drug. The graph also highlights that referral to a drug treatment service is deemed more appropriate for substances that many people perceive to be more harmful (as indicated by the colour yellow getting larger as one moves from cannabis to heroin). Cannabis was the only drug identified as requiring no response by the majority of respondents.

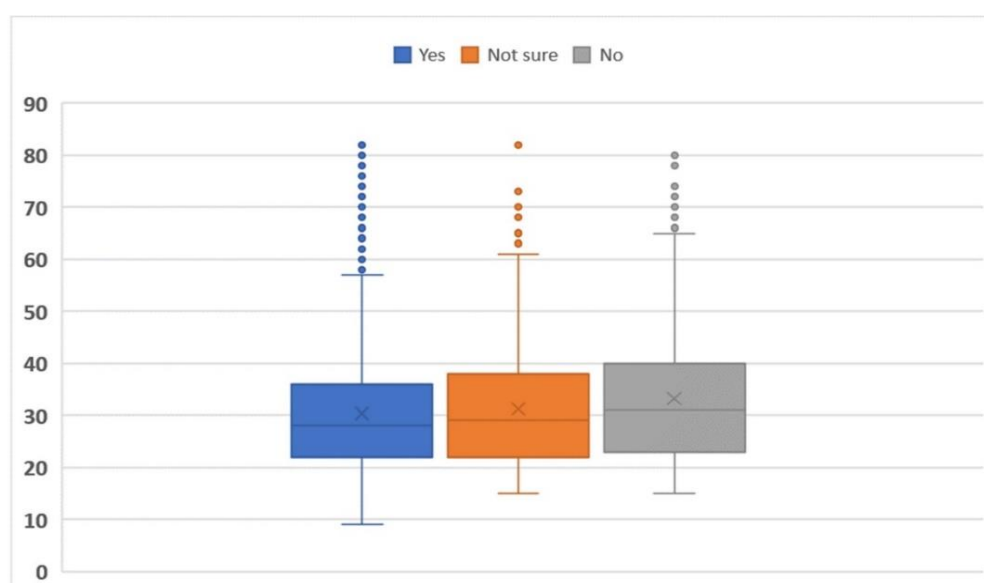
The implication of these results is that the respondents did not identify a 'one size fits all' response or intervention for the possession of illegal drugs for personal use.

2.6 Differences among Respondents

Analysis was carried out to explore whether respondents views differed by their age, sex or previous exposure to drugs.

2.6.1 COMPARING VIEWS BY AGE OF RESPONDENT

As previously highlighted, there was a wide age range of respondents to the online questionnaire. When respondents were grouped according to whether they were in favour of removing criminal penalties, only slight differences in the age profile of respondents became apparent as can be observed in the following boxplot.

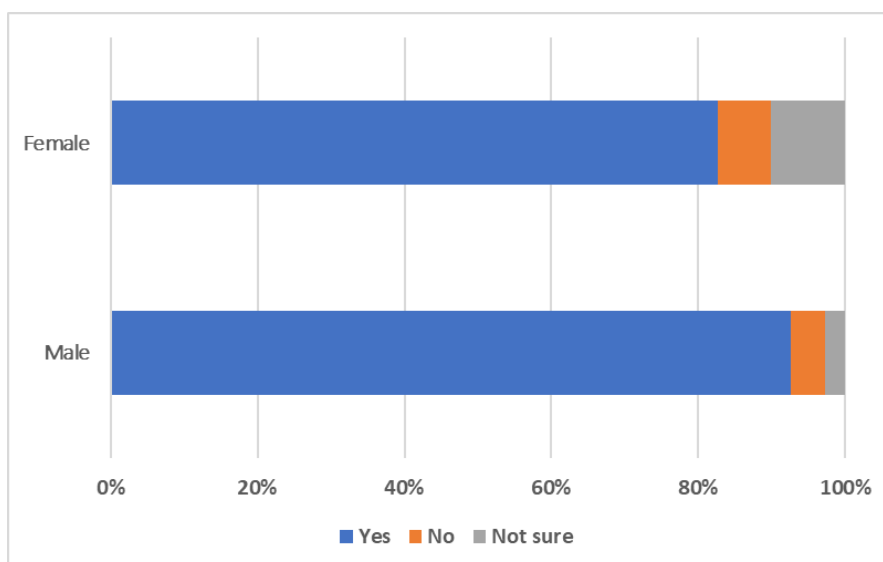


Graph 7: 'Are you in Favour of Removing Criminal Penalties' and 'Age'

The age of those in favour of removing criminal penalties was not remarkably different to those against or not sure. The average age was around 30 for all the groups, demonstrating that age did not seem to be a marker of attitudes towards the proposed removal of criminal penalties for the possession of illegal drugs for personal use.

2.6.2 COMPARING VIEWS BY GENDER OF RESPONDENT

When respondents were grouped according to their stated gender, there were some differences in whether they would be in favour of removing criminal penalties for the possession of illegal drugs for personal use.



Graph 8: 'Are you in Favour of Removing Criminal Penalties' and 'Gender'

As graph 8 demonstrates, although a clear majority of females, at 83%, stated that they would be in favour of the removal of criminal penalties, there were an even greater proportion of males (93%) who held the same view.

2.6.3 COMPARING VIEWS BY RESPONDENT'S PREVIOUS EXPERIENCE OF DRUGS

Section 5 of the online questionnaire included a question with a number of options and respondents were asked to select all that applied to them. Included in these options were categories that described experience of using illegal drugs and whether they were a member of a family that had been affected by drugs. Respondents' experience of drugs was compared to whether they were in favour of removing criminal penalties for drug possession (see table 6 below).

	Yes	No	Not sure
As an individual who has never used illegal drugs	2382 (71.5%)	566 (17.0%)	383 (11.5%)
On behalf of an organisation	249 (77.6%)	39 (12.1%)	33 (10.3%)
As an individual who is involved in an organisation that helps people affected by drugs or that advocates on behalf of people who use drugs	1143 (86.5%)	88 (6.7%)	91 (6.9%)
As a member of a family affected by drugs	2259 (88.8%)	151 (5.9%)	135 (5.3%)
As an individual who has used illegal drugs on only a few occasions	7478 (91.8%)	276 (3.4%)	389 (4.8%)
As an individual who has used illegal drugs on many occasions	6469 (97.2%)	65 (1.0%)	119 (1.8%)
As a person who has been prosecuted for possession of drugs for personal use	719 (98.3%)	5 (0.7%)	7 (1.0%)

Table 6: 'Are you in Favour of Removing Criminal Penalties' and Experience of Drugs

This data shows that all groups of respondents had a majority that were in favour of removing criminal penalties. The greatest support was amongst the group of respondents that indicated that they had been prosecuted for the possession of illegal drugs for personal use, closely followed by those who had indicated that they had used illegal drugs before. It is noteworthy though that 72% of those stated that they had never used illegal drugs before were also in support of removing criminal penalties.

2.6.3 COMPARING VIEWS BY RESPONDENT'S EXPOSURE TO DRUGS

Respondents were also asked to estimate the proportion of their family, friends and acquaintances who have used illegal drugs. This question was included to provide an additional estimate of the level of exposure to illegal drugs that the respondent had. Over 90% stated that at least a few of their social network have used illegal drugs, with the vast majority indicating that the proportion was somewhere between 'a few' and 'most'.

	Yes	No	Not sure
All	416 (95.6%)	9 (2.1%)	10 (2.3%)
Most	5682 (96.0%)	100 (1.7%)	137 (2.3%)
About half	4650 (92.2%)	166 (3.3%)	228 (4.5%)
A few	5440 (84.5%)	512 (8.0%)	481 (7.5%)
None	533 (69.3%)	172 (22.3%)	65 (8.4%)
Don't know	805 (80.1%)	104 (10.4%)	95 (9.5%)

Table 7: 'Are you in Favour of Removing Criminal Penalties' and Exposure to Drugs

Those who indicated that none of their friends, family or acquaintances used illegal drugs were the least likely to be in favour of the removal of criminal penalties, although a clear majority of this grouping at nearly 70% still thought that they should be removed. These

findings demonstrate that there is strong support for a changed approach to the possession of illegal drugs for personal use, regardless of the respondents' exposure to illegal drugs through their social and personal networks.

2.7 Concluding Comment

The overall finding from the quantitative element of the questionnaire was that the vast majority of respondents do not agree with Ireland's current approach to dealing with the possession of illegal drugs for personal use and would support the removal of criminal penalties for the offence. For most respondents, the current approach was not thought to have any impact on levels of drug use, however it was deemed to have a negative impact on a person's chances of getting a job. An approach that removed criminal penalties for simple possession was perceived to have the benefit of saving time and resources for the Gardaí and courts, as well as potentially encouraging people to access treatment. The findings also reinforce the view that not all drug use is the same. This is reflected in the responses to the actions selected as most appropriate for the different types of drugs. Drugs that are generally perceived to be less problematic (i.e. cannabis) were perceived to require less action than those associated with more harmful use (i.e. heroin).

3 Public Consultation – Qualitative Findings

3.1 Context

The final part of the online questionnaire was an open-ended question that invited participants to provide “any other feedback” that they might like to add and 5,353 respondents did so. The profile of those who responded to this question is consistent with the overall profile of respondents to the questionnaire in relation to their views on removing criminal penalties for the possession of illegal drugs for personal use: of those who answered this question, 92% were in favour of removing criminal penalties; 4% were against; and a further 4% were unsure.

Responses covered a wide range of issues, including: the form and structure of the questionnaire, the public consultation process itself; issues related to drug use in general and the people who use them; and views and experiences related to the possession of drugs for personal use. The range and content of these reflect the complex nature of drug use and the diverse views on how best to address the associated issues.

This question generated a large amount of data. Analysing such a large and varied qualitative data set is challenging. Two strands of analysis were carried out and are reported on here: first, an analysis of frequently occurring words; second, an overview of some of the key themes raised.

3.2 Word Frequency

To illustrate the most frequently occurring words across the responses to this question a frequency table and 'word cloud' are presented below. It should be noted that words such as 'drug', 'drugs', 'use', and 'the' were excluded from this part of the analysis.

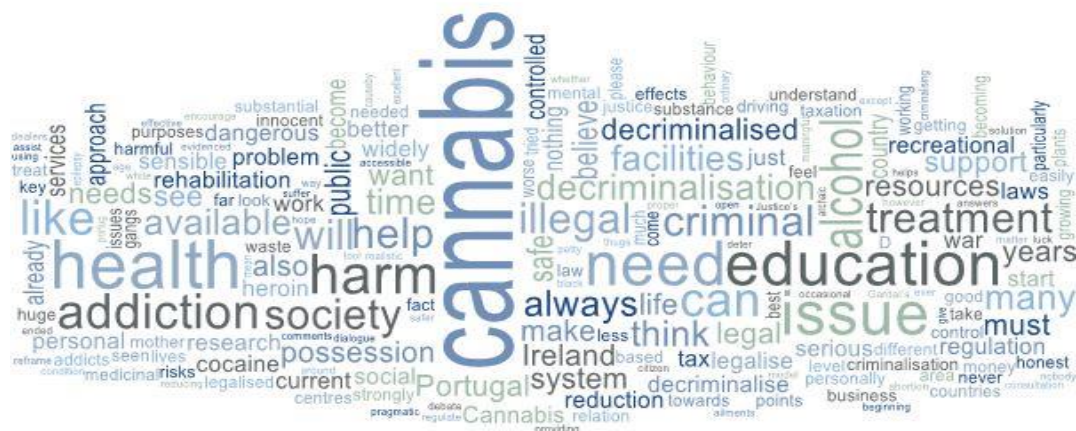


Diagram 1: Word Cloud of Key Terms in Responses to the Open-Ended Question

3.3 Thematic Overview

A top-level analysis of key themes within the responses was carried out. While the focus of this chapter is on those responses that addressed the key question of the best approach to dealing with possession of small quantities of drugs, it begins with a list of some of the broader topics raised by the public.

3.3.1 BROADER TOPICS RELATED TO DRUG USE

The consultation process highlighted a number of wide ranging issues related to drug use and the people who use them. While not an exhaustive list, these included:

- Individuals, families and communities have experienced devastation as a result of drug use and addiction.
- Drugs are perceived to have positive and negative effects for people who use them.
- Drug use is widespread across Irish society and exists along a continuum of that which is perceived to be 'unproblematic' or 'recreational' to that which is 'problematic'.
- The activities of the 'drug gangs' and the associated drug trade has had a hugely negative impact on individuals, families and communities.
- A broader range of harm reduction strategies are called for. For example, introducing access to drug testing services.
- There was a call to make medicinal cannabis available to those who need it.
- Prevention activities should be improved and made more widely available. Those activities noted ranged from education and awareness programmes, through increased availability of counselling services for people to be able to deal with childhood trauma and other issues.
- Drug treatment services need to be better funded and more widely available.
- Certain areas are more affected by drug use than others. These areas need extra support.
- Ireland has a problem with substances, irrespective of their legal status - those noted in particular were alcohol, tobacco and prescription drugs.

3.3.2 DEALING WITH POSSESSION FOR PERSONAL USE

As mentioned above, the vast majority of respondents (92%) were in favour of removing criminal penalties for possession for personal use. Responses illustrated the range of views on whether a change should be made or not, how best to proceed with any such change and

the issues that might need to be taken into consideration when doing so. The following sections look at three broad themes:

- Problems with current approach
- Changing Ireland's approach: decriminalising; legalising
- Not changing Ireland's approach

It should be noted that given the volume and range of responses, the following sections are in no way exhaustive of what was covered. Direct quotes are used to illustrate some key points.

3.3.2.1 The current approach is not the right one

The vast majority of responses to the open-ended question (92%) came from people who thought that criminal penalties for possession for personal use should be changed. A range of reasons were given for not considering Ireland's current approach to possession as the right one. Some of these are outlined below.

All illegal drugs are not the same

As illustrated in the last chapter many respondents thought there should be different types of responses for different types of drugs. However, there was a belief that having substances treated differently under the law did not reflect the levels of harm they could cause. Illegal drugs, particularly cannabis, were sometimes perceived to be less harmful to the individual and society than alcohol. For example, it was highlighted that people can become aggressive or violent after consuming alcohol, but that this rarely happens with cannabis. It was highlighted that some substances that are currently regulated such as tobacco, alcohol and some prescription medicines can be far more harmful to health and cause more deaths than some illegal drugs. It was also noted that some legal drugs are used to cause harm to others, for example the so-called date rape drug Rohypnol. Among drugs that were illegal, cannabis was seen as the least and heroin the most harmful. Heroin was heavily associated with addiction.

“Cannabis is safer than alcohol - and has definite medicinal benefits -, yet cannabis users are vilified, whereas alcohol drinkers are seen as heroes. Alcohol breaks up many more families and destroys more lives than cannabis ever has. No deaths have ever been attributed to cannabis, yet alcohol is highly dangerous. The hypocrisy of it all is highly unfair.”

Criminalising drug use is ineffective and can be harmful

Many people expressed the view that the so-called 'War on Drugs' has not worked, and that the criminalisation of people who use drugs causes unnecessary harm to individuals, families, communities and wider society. It was highlighted that people have always tended

to consume psychoactive substances, and that criminalising the use of drugs has done little to reduce use or address the associated harms. While some thought that an arrest for the possession of drugs may act as a deterrent from future drug use, overall criminalising people who use drugs was perceived to be at best pointless and, at worst, cause unnecessary harms. Many submissions highlighted how the prosecution of simple possession offences can compound difficulties experienced by individuals and their families.

“Mankind has always explored the effects of substances - many of which were used in sacred ceremony, celebration, community, healing, self-exploration and development. The present system has ostracised vast swathes of society, created a societal, judicial and healthcare nightmare. Prohibition will NEVER work. Decriminalise ALL drugs. Educate. Ensure quality. Treat and care for those with issues.”

“As a parent of a teenager that smokes cannabis and has been prosecuted I am a nervous wreck every time my son leaves the house, waiting for him to be arrested for possession or waiting for guards to call with summonses. I have paid, as many other parents have, the court poor box sums up to €750 for small amounts of cannabis in possession for personal use. My son along with most other users will continue to smoke cannabis whether it's illegal or not. The sooner the better it's decriminalised.”

Adults should be allowed to choose which substances they use

The findings reinforce the view that a diverse range of people consume illegal drugs in Ireland. Respondents reported drug use happening across Irish society and that the nature of its use varied. It ranged from sporadic or ‘recreational’ to problematic and associated with addiction. Either way criminalising the user was not seen by many as an appropriate response.

Respondents argued for the right to make their own decisions in relation to both their body and their lifestyle choices. It was claimed that there has been a ‘moral panic’ about drug-taking, and that people should be free to choose to use drugs and not be criminalised for it.

“I don't use alcohol or cigarettes. I'm a hard-working, happy, healthy and active man. I use cannabis sometime with a vaporiser and in the summer might take MDMA at a festival. I really don't understand how the current approach is ok with criminalising me, it is crazy, I'm an adult.”

“I am an otherwise law-abiding citizen, and I really dislike the fact that using drugs on occasion has essentially made me a criminal. I pay my taxes, would never, ever drive under the influence, etc, but live in fear of being prosecuted as a criminal if caught in possession of a small amount of cannabis (which is all I would use now). I have never used cocaine or heroin, but I know several people who do/have done and instead of going in and out of prison I would prefer if they could be treated.”

Those with problematic drug use require help

Respondents tended to be sympathetic to the needs of people who were engaged in problematic drug use. It was understood that people often use drugs to help them cope with adverse childhood experiences such as abuse or neglect. In these and many other instances, there were calls for a more compassionate response that does not harm individuals further. It was highlighted that more treatment centres were needed in addition to wrap-around services, including those that can adopt a holistic approach to life skills.

“Prosecution of people who use illegal drugs creates a downward spiral of unemployment and only encourages the person to further disengage with society and rarely discourages drug use. The problems in society that drug use stems from need to be addressed; prosecution is never the answer.”

“I really think care and compassion is key when dealing with drug users/addicts. Quite often, those who use or become dependent on drugs have a deeper psychological reason for turning to drug abuse. Wrap-around services and dual diagnosis need to be in place.”

Impact of stigma

Closely linked to the previous points, people highlighted the stigma and marginalisation that results from drug use being criminalised and that having a criminal record can impact a person’s rehabilitation and recovery journey. For example, it was highlighted that when drug possession cases are prosecuted before the courts, local media often report on the proceedings which can result in shaming of the individual and their family within the local community. The stigma experienced by people who use more broadly can act as a barrier to accessing services.

“I lost my son to drugs. If my son had had access to treatment, or maybe even if he didn't feel so ashamed of his problem he could have been helped. What happened was he suffered in silence, he was shunned by some of his family, and he ended up taking his own life. Please change your approach.”

“I was locked up on several occasions for shoplifting which was a direct result of my addiction. I also have a conviction for possession of a small amount of cannabis. I have not committed a crime since I got clean but I found it very difficult to get a decent job because of my criminal past. There is also a huge stigma attached to all of that which has sometimes followed me to this day.”

The system perpetuates inequality

The current system was also seen to exacerbate class inequalities. Those who were from communities characterised by socio-economic deprivation were perceived to be most likely to be prosecuted for the possession of illegal drugs, not professional workers from more affluent areas.

“I feel that the current regime unfairly targets the working class and that by criminalising drug use we are further marginalising the people who most need our support. I have seen first-hand how the current archaic drug prosecution system further stigmatises and prevents addicts from seeking help. Furthermore, as a person from a lower socioeconomic grouping, I have seen how the current laws are classist - I have friends from the flats who have been prosecuted over personal amounts of cannabis, and affluent friends who have gotten off scot free despite being found with large amounts of drugs. The current law unfairly targets the most vulnerable and is unjust!”

Ambiguity about message of changing approach

Underpinning many of the views on making a change to the current approach was a concern about making a bad situation worse. Even where respondents were in favour of removing criminal penalties, they often expressed concerns about doing so. Some people thought that having criminal penalties acts as a deterrent to people trying drugs and that any softening of prosecution would give the wrong message and suggest that it is acceptable to use drugs.

“I believe that we should move to legalising cannabis for medical and recreational use. The current situation where synthetic cannabinoids are available and being used is extremely dangerous to public health. There are no easy decisions and I acknowledge that the message decriminalising drugs will send to young people will not be without impact. To maintain the current criminalising position is not realistic, practical or fair.”

There was also ambiguity underpinned by a concern that decriminalising, legalising or regulating drugs would result in an increase in their use. Some respondents highlighted the mental and physical harms that drug use can cause as well as the associated criminal activity. While they thought the current approach needed to change, they were sometimes conflicted as they were unclear about whether the costs would outweigh the benefits of such a change. Examples of Ireland’s excessive alcohol consumption or the problems that the ‘headshops’ presented were used as examples of the risks of having a more relaxed approach in Ireland.

“Drug use is a complex issue but I personally think that decriminalisation is not the answer as it is likely to increase demand and fuel increased criminal involvement in what is a very lucrative business. On the other hand a draconian approach to possession of drugs is likely to waste Garda and court time with little effect on overall drug consumption and addiction. A carrot and stick approach strikes me as the best option with no prosecution but a warning for small amounts of soft drugs.”

This ambiguity emphasised the need for decisions to be evidence based.

Alternative approaches that worked in other jurisdictions

A commonly occurring reason given for removing criminal penalties was the view that alternative approaches that favoured interventions which were outside of the criminal justice system had worked in other jurisdictions. Portugal, the Netherlands, Colorado, California, Canada and the Czech Republic were all frequently cited. These are places where either

decriminalisation or legalisation and regulation had been implemented and these options were identified in responses.

“All the evidence points to current approach to the war on drugs as a failure. Take examples from Portugal, or the vast success in tourism and tax revenue generated for schools and drug treatment programs in Colorado. Substance abuse is a physical and mental health issue not a criminal one.”

Some of the responses illustrated a lack of understanding among members of the public about the distinction between decriminalisation of possession and legalisation. Where a misunderstanding existed it tended to be that they were perceived to be the same thing. For example, that drugs that are currently controlled under legislation would be available in a similar way to alcohol and tobacco if decriminalisation were introduced. While respondents were not always clear, an effort has been made to distinguish between these below.

3.3.2.2a An alternative approach: Decriminalisation

There was no one clear model of decriminalisation favoured by respondents. While some thought there should be no action taken after being found in possession of an illegal drug, others identified a need for some sort of response or intervention.

Deciding on responses- drugs and the nature of use

As illustrated in other sections (see for example sections 2.5.6 and the first bullet of 3.3.2.1) of this report, it was suggested that some drugs should be treated differently to others. Overall the response for different drugs was linked to perceptions of how harmful or addictive they were. Repeatedly, cannabis was singled out as requiring the lowest level of intervention, if any.

“I think cannabis should be made legal for recreational use it’s harmless we sell drink and cigarettes and that kills people. All other drugs should be decriminalised for personal use if you get caught with drugs you should be given mandatory drug counselling instead of a criminal record.”

While other drugs were seen as more harmful, what became apparent in some of these responses was how important the nature of the person’s use was perceived to be when deciding on an appropriate response to possession. For example, where people’s use was not perceived to be problematic then it was suggested that they receive either no intervention or an education and drug awareness intervention. Where people had an addiction or were experiencing problems as a result of their drug use then they should be given access to a range of treatment and other services to meet their needs.

“I think some of these questions are circumstantial. If someone is in possession of MDMA or ecstasy or cocaine on their way to a night out or at a festival it’s more than likely solely for that purpose. If someone is found in possession of these same drugs and

using at home then that could mean addiction and could need help or treatment. In neither case do I think a prison sentence or fine is the right treatment for personal use.”

Actions

Where respondents thought there should be an intervention for those found in possession these included: drug education, drug awareness, treatment and other wraparound services. In general the views were that the interventions should aim to incentivise people into stopping their use or reduce the harms. There were some suggestions as to how this could be done, with community engagement and job schemes being mentioned. Other submissions emphasised that a nuanced approach that combines education, rehabilitation supports and penalties depending on an individual's circumstance would be best.

Voluntary vs mandatory

People varied as to whether they thought those found in possession should be compelled to attend the interventions considered appropriate, or if all referrals to an intervention should be made voluntary. The main advantage to making it voluntary was a perception that people needed to want help for it to be effective; making it mandatory would waste service providers' time and resources.

“Possession for personal use of recreational or "weekend" drugs should be met with warnings, fines, and referral to online drug education for the users. Possession of more destructive drugs (heroin, meth) should be met with involuntary rehab for the users. All dealers of all drugs should be prosecuted. Punish the suppliers, not the users.”

A need for improved access to treatment services

In considering the best approach to deal with drugs, a need for increased and improved treatment and support services was identified. It was argued that irrespective of the approach or model chosen, more services would be needed. For example, it was suggested that a move to decriminalisation would require increased access to a variety of services and the funding necessary to do so.

3.3.2.2b An alternative approach: Legalisation or regulation

Some respondents favoured legalisation and/or regulation, while others described it as a step too far. Four perceived benefits to these approaches were identified. First, regulation would generate a new stream of tax revenue for the government. Second, it would generate employment and economic growth through agri-business ventures to produce substances. Third, substances would be safer as consumers would know the strength and purity of drugs that they chose to take. For example, there was concern about a trend towards increasingly high levels of THC content within cannabis. Regulation could lessen the associated harms by regulating purity. Fourth, unless legalised it was argued that the drug market would continue to benefit criminal gangs and perpetuate the associated negative consequences for

Irish society. Gang-related violence and drug-related intimidation were perceived to be exacerbated by the illegality of drugs.

“If people were allowed to grow a plant or 2 for themselves - it would truly be a victimless crime. As it stands we are forced to contact sometimes unsavoury individuals to purchase cannabis, all under the fear of being arrested. It's unacceptable.”

“I grew up in the 70s and 80s and seen people take drugs and took drugs myself. I realised then that having drugs illegal was a waste of everyone's time and effort and would not succeed. I believe all drugs should be legal and sold through Pharmacy shops like all other drugs are. We should have proper quality control on all substances where possible and should tax the sale of them. People should only be arrested if they are causing trouble to others or property etc.”

3.3.2.3 *Not changing Ireland's approach*

Only 4% of respondents to the open-ended question were against the removal of criminal penalties for simple possession. They gave a range of reasons for this view, including:

- Some argued that Irish people already have a problematic relationship with substances that are legal (in particular alcohol), and that making other substances more widely available would just add to the problem.
- There was a perception that legalisation and decriminalisation would increase levels of drug use. It was argued that this would increase the associated problems and make more demands on an already pressurised health system, which is currently struggling to cope with the problems associated with alcohol and tobacco use.
- It was suggested that the social harm that decriminalisation might cause, could offset any benefits that may accrue to individuals who are found in possession.
- Changing the approach was not perceived as a solution for the problems associated with drug use and for the people most affected. For example, it was argued that while decriminalisation would mean people would no longer be restricted in travel, this would only benefit people who use who are affluent.
- A small number of responses reflected very negative views towards people who use drugs. They used pejorative language and in some cases called for more severe action against them. For example, longer prison sentences, restrictions on their access to social welfare and housing.

“I would not like to live in a society that decriminalised drugs. I find even as it is the anti social nature associated with alcohol use bad enough. I think it would be detrimental to communities and businesses to have to deal with more widespread drug use.”

“My real concern is in the increasing intimidation associated with drug supply. We only hear of the big gangs e.g. Hutch / Kinahan violence but ignore the increasing violence perpetrated in local estates by lower level gangs. If personal use is allowed this will lead to greater demand and supply and larger amounts of money involved which will lead to greater heartache for relatives and communities in which these drugs will be dealt.”

3.4 Concluding Comment

There was some polarisation of views in the responses to the open question of this consultation. However, the overwhelming message is that there is support for a change to the current approach to possession. For the majority of respondents, the current approach was not perceived to be the best one, was considered unfair and was associated with causing problems for the individual, their families and communities. Decriminalisation and in some cases legalisation and regulation were recommended as alternatives. However, the ambiguity that characterised some of the responses reflects the complexities involved in addressing the drug issues.

This ambiguity reinforces the view expressed by some that decisions need to be based on evidence. It was suggested that discussion on the topic can often be emotive and that there was a need for policy makers to base decisions on the best evidence available and the experience of other jurisdictions.

4 Views of People Prosecuted for Possession

The second stage of this consultation explored the views and experiences of people who had been prosecuted for the possession of illegal drugs for personal use. Participants were not asked about whether they had any other criminal conviction. Two focus groups were carried out which were semi-structured and focused on the context and outcome of participants' prosecution and their views on alternative responses to possession of small amounts of drugs. The purpose of these focus groups was to provide the Working Group with a better understanding of how the current approach to simple possession offences impacts people who have had direct experience of being prosecuted in the current system.

4.1 Methods

Two focus groups were recruited for consultation:

- Participants for the first group were recruited with the assistance of the Ana Liffey Drug Project, Merchants Quay Ireland and UISCE, all of which are NGOs that work with people who use illegal drugs or have direct experience of addiction to illegal substances. Nine people participated in this focus group which was held in July 2018.
- Participants for the second group were identified through the online questionnaire by cross-referencing respondents who indicated that they had been prosecuted for simple possession offences and who also provided contact information to be considered for further consultation. Participants were selected purposively so that there was a mix of age and gender in the group. They were invited to participate by email, with some also receiving a follow-up call. Six people participated in the focus group which was held in August 2018.

Both groups were facilitated using a semi-structured topic guide. The session was tape recorded with the respondents' consent. Data was analysed thematically, the findings of which are reported below. The information received from both focus groups is combined, but where there was divergence between the views of the two focus groups, or participants, these differences are highlighted.

4.2 Being Found in Possession of Illegal Drugs for Personal Use

4.2.1 PROFILE

Participants varied in the nature of their drug use and the circumstances under which they were found in possession of an illegal drug:

- Some had been using drugs for a considerable amount of time and had developed a dependency, whilst others stated that they only used drugs recreationally, often as an alternative to alcohol, when socialising or attending certain types of music events.
- The drugs that the Gardaí had found them in possession of included: cannabis, heroin, cocaine, LSD, amphetamines and ecstasy/ MDMA.
- There was a range of settings or environments in which they were found in possession, including: music and dance events, on the street, in a motor vehicle and outside of their house.

This profile illustrates the diversity of contexts that prosecution for the possession of illegal drugs for personal use entails.

4.2.2 IMMEDIATE IMPACT OF BEING FOUND IN POSSESSION

Participants identified four ways in which their experience of being found in possession had impacted on them:

Stress: Being found in possession was a stressful experience and participants described how it had led to emotional difficulties and distress. Many described the experience as having had a negative impact on their mental health. They described how they had cried and experienced panic attacks at the thought of being prosecuted and potentially going to prison. Many described a sense of shock and fear about how a criminal conviction would impact on their lives. At the extreme end of emotional distress, a participant attributed their arrest to them getting 'so low that I tried to kill myself'.

Taking health risks: Some had engaged in high risk behaviour in an attempt to minimise the charges that they would face. In more than one instance, participants described how only some of the illegal drugs they were holding had been found and confiscated by Gardaí. To minimise the likelihood they would be found with more illegal substances in their possession upon arriving at the Garda station, they ingested whatever else they were holding on their person. In one case, this was a number of pills, far in excess of what they had previously taken at the one time. The person acknowledged that this was very risky and potentially harmful behaviour.

Humiliation: More than one participant who had been searched on a busy street described feeling humiliated when they were searched in view of passers, some of whom video-recorded the scene and uploaded it to the internet.

Impact on families: Being searched or found in possession could have a negative impact on people's families. For example, where participants lived with their parents the prosecution caused their parents stress and worry. Children were also affected. For example, a participant's young child had been with them when they were searched on the street. Another's house had been searched, and all their family-members were separated from each other which caused the children and their spouse a lot of distress.

4.2.3 BEING PROSECUTED FOR THE POSSESSION OF ILLEGAL DRUGS

Outcome of prosecution

In both focus groups, various outcomes of being prosecuted for simple possession only were described. Some had received community service, and a few availed of the Probation Act and a few avoided a criminal record by making a donation to a charity. One participant said that his/her case was dismissed because the Garda did not appear in court.

Impact of being prosecuted

Stress: The distress participants described was not limited to the immediate aftermath of being found in possession of illegal drugs. Several participants spoke about worry and stress that they experienced leading up to and following their prosecution in court. Needing to present to the court to comply with the summons can be very stressful. Some felt they could not tell their employer why they needed a day off work for fear of ruining their career and future prospects. Even those who did not receive a conviction and accompanying criminal record for the offence found the experience to be very stressful with long-term consequences. The often lengthy period of time that elapsed between being found in possession and the court case can cause extreme stress for the individual, particularly if they were already experiencing difficulties with their mental health or in their personal life.

Stigma: Being prosecuted for possession can stigmatise the person involved. One participant stated that prosecution results in a 'stain on their character' that lasts a lifetime, others agreed with this view. This has been compounded with the advance of digital media as reports about court cases can result in people being identified in online news publications that can easily be found through an internet search for years afterwards. It was argued that this results in their long-term stigmatisation, even where people progress to a drug-free life of recovery. This was seen as particularly so in relation to heroin use, with participants emphasising that there is a particular stigma associated with being addicted to heroin.

Job/Educational opportunities: People described how even after years of being sober and abstaining from all drugs, they still felt anxious and fearful when applying for jobs or educational opportunities that require Garda vetting. As mentioned above, disclosing an upcoming prosecution or a resulting travel restriction to an employer were also seen as problematic.

Travel: Several participants highlighted the difficulty a conviction for possession poses if wanting to travel to certain countries, whether to attend a business conference, visit relatives, or other reasons. Some participants stated that they would not even try as they know that their drug charges would prevent them from entering certain countries. Others

said that they had lied about their convictions on official documentation in order to travel to certain places. Many agreed that with a conviction it was better not to disclose it.

Homelessness: A prosecution and/or conviction for possession had also been seen to make people more vulnerable to homelessness and housing instability. For example one participant was asked to leave their home when their court summons arrived, rendering him homeless.

Impact of being given a prison sentence

None of the participants had received a prison sentence for simple possession only. However, some had spent time in prison for convictions related to their drug use and reflected on these experiences as the possible outcome of a prosecution for personal use. Prison had been a negative experience. Participants explained that going to prison can expose individuals to people and substances that they may never have encountered before. One man stated that being in prison had a direct role in him becoming addicted to heroin. Another said he was more likely to engage in criminal behaviour after a custodial sentence. He had received advice from other inmates about ways to benefit from criminal activity and through the contacts he made in prison he became integrated into criminal social networks. Many other participants agreed with this view, Prison was described as a “university of sorts” through which criminal activity is escalated. It was argued that over time, people start to adapt and become accustomed to prison and criminal life, and the likelihood of them being able to ‘turn their life around’ is lessened.

There was however one exception to the overall view that prison had a negative impact on drug use and criminal activity. A participant believed that being in prison for sale and supply had helped him to get on to a path of recovery. He had been imprisoned on more than one occasion (as a result of selling drugs rather than just possession for personal use) and described himself as having been addicted to heroin. He was homeless prior to re-entry to prison, he was surrounded by ‘all that cesspit stuff’ and he had a realisation that if he did not change his behaviours, the negative cycles of addiction, homelessness and incarceration would continue - “If I had not gotten nicked (arrested), I don’t know what I’d be at today... being inside the wall, it helped me to wake up and have a moment of clarity”, but he also recognised that his experience was not commonplace. Upon hearing the man’s story, another participant in the group commented that it was “a sad state of affairs when someone has to go to prison to save their life when support was not there before they go to prison”. The other participants agreed with this view.

4.2.4 CURRENT APPROACH

There was an overall consensus that the current approach should be changed. Underpinning this position was a number of themes:

- Not everyone is treated equally under the current approach
- The nature of drug use is complex and punishing possession does not help
- Drug use requires a health-led response

Each of these is explored below.

4.2.4.1 *Not everyone is treated equally under the current approach*

A recurring view was that not all people are treated equally under the current law for possession. Social class was perceived to be a factor in the likelihood of being found in possession and prosecuted. There was general agreement among the participants of both focus groups that a person's address, accent and general appearance could influence the likelihood of them being found in possession of illegal drugs and subsequently prosecuted. Participants perceived these markers of social class to influence whether somebody was searched by the Gardaí in the first instance, whether they would be prosecuted and the outcome of their court appearance. For example, it was mentioned that those without the financial means would not be in a position to make a donation to charity and thereby avoid a criminal conviction. A number of individuals avoided a conviction by availing of the Probation Act stated that this was due to them knowing somebody working within the criminal justice system who was able to advise them of their best course of action. A participant who did not avail of this said that he had not realised the implications of pleading guilty to the possession of illegal drugs and the negative impact that it would have on his future life chances.

4.2.4.2 *The nature of drug use is complex and punishing possession does not help*

Underpinning the overall view of the current approach was an understanding of the nature of drug use as complex. Essentially that it is not necessarily the drug itself that is the problem, rather the way in which it is used. In this context, perceptions of use fell into two broad categories, neither of which were perceived to be best addressed through prosecution for possession.

First, participants did not view all drug use as problematic. They argued that a substantial proportion of Irish society use illegal drugs and it is not sensible to categorise all of them as criminals. A recurring view was that many people who take illegal drugs are 'normal', 'hard-working', lead 'productive' lives and are doing nothing to harm others directly. They did not believe that the substance they chose to consume to relax or to socialise should result in them being prosecuted and/or receiving a criminal conviction. Some argued that people should be allowed to choose to take drugs without fear of entering the criminal justice

system. Several participants argued that alcohol and some prescription medicines can be more harmful to individuals and wider society than illegal drugs but that they are more socially acceptable due to their legal status. For example, a participant stated that she had a lot of friends and associates who take illegal drugs recreationally and that they all agree that it should not be categorised as a criminal activity. She enjoys taking drugs, particularly in comparison to drinking alcohol which she has experienced to have a more negative effect on her. It was emphasised that people are going to continue to take drugs and that the important thing is how society and ultimately government decide to deal with it in order to make the situation better for all involved.

Second, where drug use was seen as problematic or a person is addicted to drugs, they need support rather than punishment. Participants spoke about the causes and recurring nature of addiction. Prosecuting for drug possession can compound some of the underlying factors that lead to using drugs in the first place. Some participants spoke about difficulties that they had experienced prior to using drugs. Drug use provided a temporary escape from negative feelings and circumstances often caused by adverse childhood events such as parental abuse, neglect or other traumatic experiences. For example, a participant who had been in recovery for a number of years thought that if he had somebody to talk to when he was growing up, such as a counsellor, then he would not have developed a habit of taking drugs and his life would have worked out very differently. However, taking drugs helped him cope. Similarly, drug-taking and homelessness were viewed as a negative cycle as people need to leave many emergency shelters in the morning and they take drugs to get through the day. A criminal prosecution would make this person's situation worse. The overall message was that people experiencing problems with their drug use who had not committed any crime other than being in possession of an illegal drug needed support not punishment.

4.2.4.3 *Drug use requires a health-led response*

Cutting across both the categories outlined above there was agreement that drug use requires a health-led approach. While the consequences of consuming a small bit of cannabis were perceived to be far less harmful than from injecting heroin, both were viewed as health-related and should not be handled within the criminal justice system. One participant mentioned that they had friends who had developed drug-induced psychosis from consuming cannabis. She argued that where they were found behaving erratically on the street, it should prompt a health-led response and not a criminal justice led response. In the discussion that followed, all participants agreed that the appropriate response would depend on the individual and their circumstances, and not the substance in their possession.

4.2.5 ALTERNATIVE APPROACHES

While participants varied in what they thought the best approach to simple possession should be, they tended to be of the view that being prosecuted before the courts is never an appropriate response. It was argued that everyone deserves a chance to better themselves and their life-chances and that being a person who uses drugs should not be a reason for them to receive a criminal record. For example, a participant highlighted all of the costs that had been put into their prosecution - the Gardaí, the judges, the court system, the barristers and the probation service. He felt that it would have been better if those resources had been put into treating his addiction rather than prosecuting it. It was also argued that in many cases, the repercussions from being found in possession and subsequently prosecuted are often more damaging to the individual than taking the drug itself. Broadly speaking three alternative approaches were discussed:

- More alternatives to prosecution in the current system
- Decriminalisation
- Legalisation and regulation

4.2.5.1 *More alternatives to prosecution in the current system*

While participants did not support maintaining the current approach, if it were to prevail they favoured more choice in terms of outcome options. For example, some thought that when they were found in possession a better approach would have been to give them the choice between prosecution before the courts and another option, such as treatment. Being provided with a choice could have lessened their feelings of helplessness and other negative emotions.

4.2.5.2 *Decriminalisation*

Decriminalisation was seen as a positive alternative in both groups. Several participants believed that other countries apply more effective approaches and there was frequent mention of the Portuguese system of decriminalisation. It was suggested that a similar approach would be good in Ireland, with a panel or dissuasion officer operating within each Garda district. The discussions within the groups reflected the complexities involved in defining the parameters of such a system and how it should be applied. Two key issues were identified:

- How 'possession for personal use' should be defined.
- What the appropriate response should be for people coming into contact with any such panel or dissuasion officer.

What constitutes personal use?

Defining 'personal use' was seen as a complex issue and was raised as problematic by participants in both focus groups. There was discussion about what should be considered 'personal' use and what constitutes 'sale or supply'. Broadly speaking two issues were discussed - first the varying quantity people use, second the nature of the drug market and the way people purchase drugs.

It was highlighted that every individual consumes different quantities of drugs based on their personal tolerance levels. It was argued that what they use in a day could be over a given threshold and considered enough for a supply charge. The second issue had two elements which related to the way people buy drugs. Participants explained that it was sometimes possible to get a discount by buying a more plentiful amount of a particular drug. This means that they may be found in possession of a few 'packages' which could still leave them vulnerable to being charged with sale and supply despite the drugs being for personal consumption only. In addition, it was described as commonplace with 'recreational' users for friends to purchase drugs together, or for somebody to source the substances on behalf of a group of friends. They would then socialise and use them together. It was argued that this should not be considered drug-dealing or a 'sale or supply' offence.

Defining an appropriate response

There was variation both between and within groups about how best to implement a dissuasion-type system and, in particular what the appropriate response should be for those appearing in front of any panel or officer. Broadly speaking it was suggested that the response should be made on a case-by-case basis, be voluntary and should be driven by the nature of the person's use.

Non-problematic or recreational use: Although the groups expressed the view that cannabis and other 'soft' drugs can be a gateway to more harmful substances and patterns of use, they agreed that those who are not daily users and are only found with small amounts should not be brought to court or referred to residential treatment as it would be a waste of both time and resources. There was consensus in one of the groups that all people found in possession should receive an intervention. It was suggested that "enough for a joint could easily escalate to cocaine". Where people were not dependent, education on the impact that drugs can have on your body, life and family would be beneficial. While the other group did not necessarily think all cases required an intervention, there was agreement that somebody who uses drugs on a weekly basis or less for 'recreational' purposes could benefit from education or awareness programmes on the effects of drugs, in a similar way to alcohol awareness campaigns.

Problematic use: Where those found in possession were addicted to drugs then they should be given access to treatment and other support services. While the focus of

interventions was on treatment or education and awareness building, broader interventions were also discussed. Some participants, who described themselves as having had an addiction, said that they would have benefited from support in learning how to cope with difficult emotions which often worsen when one is facing prosecution for criminal offences. Delivering support to get on a better lifepath was also suggested. A participant said that ideally people wanting to recover should be assessed with a sort of aptitude test to determine what they could potentially be good at and supported to develop skills to help them gain employment and keep busy.

Irrespective of the nature of people's use, there was a recurring view that participation in any kind of treatment intervention had to be voluntary. The general consensus was that there would be no point in insisting on an intervention unless that person wanted to make a change to their drug-taking behaviour. Although treatment and rehabilitation supports were seen as more effective than criminal penalties for overcoming the harms that drugs can cause, it was highlighted in both groups that entering treatment needs to be motivated by the right reasons. For example, a participant spoke about entering treatment as an order of the court. He did not believe this to be the 'right' motivation for entering treatment and he took action that jeopardised the chances of recovery for other people in the treatment centre. He argued that coerced treatment can cause more harm to a community or other individuals than no intervention at all. It was only in later years when he sought help himself that he was successful in becoming 'sober', and he put this down to having the right motivation for accessing treatment at that time.

4.2.5.3 *Legalisation and regulation*

Some participants favoured legalisation and regulation as the alternative approach for Ireland to take. One of the groups identified three benefits to legalising drugs. First, drugs would no longer fund violent criminal gangs. Second, the harms associated with drug use would be substantially lessened for individuals, families, communities and wider society. Third, it would potentially generate additional tax revenue. A participant who felt that decriminalisation would not go far enough preferred legalisation and regulation, particularly in the context of Ireland being a country where excessive alcohol consumption is widespread. It was suggested that people should have the right to take drugs, even if this path leads to addiction, but they should also have the right to receive the help and recovery supports that they need. This was likened to how society treats alcohol, in that people have a right to purchase and consume it even though many people develop problematic relationships with it. Some participants believed that they should have the right to choose to consume drugs instead of alcohol and that steps should be taken to ensure that this is as safe as possible.

4.3 Concluding Comment

People who have been prosecuted for possession for personal use under Ireland's current approach have identified it as having a number of problems. There was consensus that the current approach should be changed. It was found to have a negative impact on the psychological wellbeing of individuals and their families, in addition to affecting their long-term life chances. It was perceived to be unfairly implemented and ineffective in addressing the problems associated with drug use. Instead the findings suggest a need to move to a decriminalised approach where people who use illegal drugs are individually assessed and, where appropriate, referred to services that can support them in addressing their use and minimising the associated harms. The overall message was that people experiencing problems with their drug use who had not committed any crime other than being in possession of an illegal drug needed support, not punishment.

5 Stakeholder Organisations

In October 2018 an open policy debate allowed for a targeted consultation with 17 representatives from relevant stakeholder organisations and individuals who had looked to engage with the Working Group (see Appendix 2). There were three presentations at beginning of the event outlining the consultation process, the current legal approach for personal possession and the health implications of drug use (see Appendix 2). Participants were assigned to five different tables (each of which had its own facilitator and note-taker) and they were asked a number of questions designed to explore how an alternative health-led approach could operate in practice.

In the first roundtable discussion, participants were asked to explore the advantages and disadvantages of two possible alternative responses for someone found in possession of illegal drugs for personal use - referral to a drug education and awareness programme and referral to a drug treatment service.

The second set of questions looked at issues about implementing an alternative approach; whether there should be a different response for different drugs, and whether there should be a different response for subsequent incidents of being found in possession. Other related topics were also discussed.

5.1 Referral to a Drug Education and Awareness Programme

The participants identified advantages of an individual being referred to a drug education and awareness programme, which included the public health approach, whereby education and awareness aimed at communities where drug use may be normalised can help to change the culture. Such a referral could also provide clear, consistent messages about drugs and debunk myths. Some participants argued that this type of alternative response could lead to cost-savings for the criminal justice system, while providing an opportunity for people to engage with treatment services. The participants highlighted the need for high quality and targeted education that include harm reduction information. They did, however, caution about the effectiveness of generalised education and awareness programmes in decreasing drug prevalence or use, especially as they may require significant resources. Some participants queried whether attendance would be mandatory and the ethical implications of this.

5.2 Referral to a Drug Treatment Service

The participants felt there were many advantages to a referral to a drug treatment service such as the opportunity to intervene with treatment as early as possible. It was acknowledged that this type of referral could help somebody with addiction issues on to a path to recovery. Drug treatment services were said to be individualised and more client-centred than the previous example of an education or awareness programme. Some participants highlighted the need for follow-on services such as step-down care to tackle other issues that an individual may have along with their addiction issue. Participants did, however, acknowledge that mandatory treatment would not be effective and that an assessment would be necessary first as many people who use drugs do not have addiction issues. There were many comments about the resources that would be required for this type of referral and the funding shortages within the system at present.

5.3 Responses for Different Types of Drugs

Participants were asked whether they would recommend different responses for different drugs, so that for example there should be a different intervention for those found in possession of cannabis when compared to someone found in possession of heroin.

Most of the participants did not recommend such an approach. Instead they posited that the focus should be on the person and their particular circumstances, and not the drug that they are found in possession of. The participants who favoured a personal approach highlighted the importance of proper assessment which would identify the appropriate treatment option. They reiterated that the response should be tailored to the individual situation as reactions to drugs and outcomes from drug use differ by person and not necessarily by drug type. The issue of polydrug use was highlighted to reinforce the need to respond to the person and not the drug.

Only one of the five tables felt that there should be a different response for different types of drugs. This table did agree that responses should also be tailored to the individual. They also highlighted poly-substance use and recommended that any response would be capable of dealing with these newer patterns of drug use.

5.4 Responses for Subsequent Simple Possession Offences

The third question asked was whether the participants would recommend different responses for someone on second, third or subsequent offences.

Most of the participants were of the view that no matter how many times a person is found in possession of illegal drugs for personal use, they should never receive a criminal sanction. These participants were of the view that a health-led response needs to continue to provide supports for people with addiction and they highlighted the difficulty to move out of chronic addiction and how a person may be found in possession of drugs on multiple occasions within the same week. They thought that each individual should be assessed based on their current situation. The participants advised against a 'three strikes' approach and stated that it should depend on how the person has engaged with services rather than the number of times that they have been found in possession of illegal drugs for personal use.

One table thought that it might be appropriate to introduce a sanction such as a fine after the first offence, or another mechanism such as community service, but that the length of time that had elapsed since the previous incident should also be taken into account.

5.5 Implementing Alternative Approaches in Ireland

Participants were asked to explore how an alternative approach could be implemented in practice. They were first asked who should decide on the appropriate intervention when somebody is found in the possession of illegal drugs for personal use.

The main view was that Gardaí should be the first point of intervention, after which the individual would be referred for a treatment assessment by a health professional or interdisciplinary team where they can be referred onward to an appropriate intervention when required. There were differences in the proposed make-up of these interdisciplinary teams; some suggested a panel that includes a drugs worker, psychologist and social worker while others suggested a model similar to Portugal of police, health and legal professionals. The need for an interface with community-based services was also identified. One table highlighted the importance of Gardaí retaining the power to process individuals through the courts who are engaged in the sale or supply of drugs.

After exploring who should make the decision regarding interventions, participants were asked to discuss how the decision should be made in terms of the type of training required by the person(s) or whether the decisions should be based on objective criteria such as threshold amounts or types of drugs.

It was deemed that specific criteria would not be necessary as the team would have the appropriate knowledge and expertise to carry out the health assessment. Some participants highlighted the need for the team or panel of professionals to be drawn from a diverse range of backgrounds but who are all trained appropriately. One table recommended the SAOR⁷

⁷ See <https://www.hse.ie/eng/about/who/primarycare/socialinclusion/homelessness-and-addiction/alcohol-and-substance-use-saor/> for further information

model of screening and brief intervention as an appropriate training for those making an assessment. If there were criteria or guidelines, it was felt that they should have some flexibility and that thresholds should be avoided.

Thirdly, participants were asked where the decision should be made. Suggestions included on the street by Gardaí or in a health/ primary care centre. Some participants were clear that the assessment should take place as close to the community as possible, and there were concerns about individuals having to travel great distances for assessments.

Finally, participants were asked whether there should be a sanction if the person who was found in possession does not adhere to the advice, or comply with the decision of a diversionary referral.

Most of the tables felt that criminal sanctions would not help address the health-based issue of drug use and they doubted whether a sanction would be in anyway helpful. Therefore, they were of the view that a sanction should not be an option. However, one table did suggest that the option of criminal sanctions should be retained. They suggested that a fine may be appropriate if the individual was not taking the health-led process seriously.

5.6 Concluding Comment

The purpose of this element of the consultation was to explore how an alternative health-led approach should operate in practice. Most participants felt that the decision on an appropriate referral should depend on the circumstances of the individual concerned and should not be determined by the specific substance which they were found to possess. Primarily it was the nature of their use as problematic or not that should be the basis for any decision-making about responses. Gardaí should remain the first point of intervention, after which the individual would be referred for a treatment assessment where they can be referred onward to an appropriate treatment when required. The assessment should be made by a trained health professional or interdisciplinary panel and should occur as close to their local community as possible. Treatment should always remain an option, it should never be coerced. A minority of participants were in favour of retaining criminal penalties for people who are repeatedly found to be in possession of illegal drugs or who refuse to comply with the referral or recommendations.

In other discussions on the day, it was emphasised that the dangers of drug use and the illegality of drugs is not in question, but the focus should be on the best way to address drug use.

6 Conclusions

The findings from this consultation suggest support for the Government's health-led approach to drug use and for this to be reflected in a change to Ireland's current approach to the possession of drugs for personal use. There were a number of key messages from the consultation:

- Across the three strands of the consultation there was overall support for the removal of criminal penalties for those found in possession of illegal drugs for personal use.
- Criminalising drug use tended to be viewed as ineffective in reducing or preventing drug use. Instead it was generally perceived to stigmatise and further marginalise people affected by drug use and have a negative impact on their future life chances.
- The findings suggest a lack of clarity among members of the public about the distinction between decriminalisation on the one hand and legalisation on the other.
- It was widely thought that the harm caused by different substances was not necessarily reflected in their legal status. The harm caused by alcohol in Irish society was a recurring theme and cannabis was generally viewed as much less harmful than other illegal drugs, and in some cases alcohol.
- Within an alternative model where drug use was not subject to criminal sanctions but people would be subject to some sort of assessment process, it was repeatedly suggested that any referral should be based on the circumstances of the individual, and not simply the specific substance of which they were found in possession. The more problematic a person's use, the higher the level of response required. For example, 'recreational' cannabis use may require either no intervention or possibly drug awareness/education, whereas problematic heroin use may require a referral to treatment services.
- The consultation highlighted the complexities involved in both the causes and the responses needed to drug use. While there was overall support for moving away from a model that criminalises drug use, there was some ambiguity about how to do so. People expressed caution that this would need to be done in a way that would not 'send the wrong message' to young people in particular about the harms of drug use. Also, while only 8.5% thought that the current approach prevents or reduces drug use, concerns were expressed that changing it might result in an increase in drug use. This finding highlights the need for the government to take an evidence based approach to addressing this complex issue.
- Any change in the approach would require additional resources to ensure that appropriate services were available. Improved access to treatment services was mentioned in particular.

Appendix 1

Public consultation on personal possession of illegal drugs

Section 1: Information and consent

The Government has established a Working Group to examine approaches other than criminal penalty for personal possession of illegal drugs.

This is an action in the national drug strategy 'Reducing Harm, Supporting Recovery – a health-led response to drug and alcohol use in Ireland 2017-2025'. Further information on the Working Group is available [here](#).

The Working Group is looking for your opinion to be included in the recommendations they make to Ministers. You can give your views by completing the online questionnaire before **30 June 2018**. You can find information on the current approach in Ireland and alternative approaches in other countries [here](#).

Any personal details that you provide will remain confidential (in line with data protection legislation). This means that we will not share your name, email address or contact number with any third party. However, all other information and opinions you give will be subject to the Freedom of Information Act (2014) and may be released in response to a Freedom of Information request.

This consultation is about illegal drugs only. It is not about alcohol or prescription drugs such as medicinal cannabis.

The online questionnaire can be filled in on personal computers (PCs), Tablets, and Smartphones. It should take no more than 15 minutes to complete.

Please tick if you understand the purpose of this online questionnaire and wish to continue.

☐ I understand the purpose and wish to continue

Section 2: Current approach in Ireland

Do you agree with the current approach that can prosecute people before the courts if they are found to possess illegal drugs for personal use?

- ☐ Yes
- ☐ No
- ☐ Not sure

When thinking about the CURRENT approach (described above) do you agree or disagree with the following statements?

	Strongly Agree	Slightly Agree	Neither Agree nor Disagree	Slightly Disagree	Strongly Disagree
It stigmatises people who use drugs.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It can affect a person's future chances of getting a job.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It can affect a person's future chances of travelling to certain countries.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It prevents or reduces drug use.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It ignores health and addiction issues.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Section 3: Alternative approaches

Are you in favour of removing criminal penalties for possessing illegal drugs for personal use?

- ☐ Yes
- ☐ No
- ☐ Not sure

If Ireland removed criminal penalties for possessing illegal drugs for personal use, do you agree or disagree with these possible outcomes?

	Strongly Agree	Slightly Agree	Neither Agree nor Disagree	Slightly Disagree	Strongly Disagree
There would be more drugs in the community.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It would encourage people to seek treatment for drug addiction.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It would make it easier for drug dealers to go undetected.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It would lead to more people experimenting with drugs.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It would save time and resources for Gardai and the Courts.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Section 4: Other approaches for different kinds of drugs

What do you think should happen to a person found in possession of CANNABIS for personal use?

(you can tick more than one)

- ☐ No action
 - ☐ A caution or warning
 - ☐ Referral to a drug education and awareness programme
 - ☐ Referral to a drug treatment service
 - ☐ Participate in a community engagement programme
 - ☐ An on-the-spot fine (similar to a minor driving offence)
 - ☐ Increasing penalties for repeated offences
 - ☐ Prosecuted before the courts
 - ☐ Don't know
 - ☐ Some other action (please name this)
-

What do you think should happen to a person found in possession of ECSTASY or MDMA for personal use?

(you can tick more than one)

- ☐ No action
 - ☐ A caution or warning
 - ☐ Referral to a drug education and awareness programme
 - ☐ Referral to a drug treatment service
 - ☐ Participate in a community engagement programme
 - ☐ An on-the-spot fine (similar to a minor driving offence)
 - ☐ Increasing penalties for repeated offences
 - ☐ Prosecuted before the courts
 - ☐ Don't know
 - ☐ Some other action (please name this)
-

What do you think should happen to a person found in possession of COCAINE for personal use?

(you can tick more than one)

- ☐ No action
 - ☐ A caution or warning
 - ☐ Referral to a drug education and awareness programme
 - ☐ Referral to a drug treatment service
 - ☐ Participate in a community engagement programme
 - ☐ An on-the-spot fine (similar to a minor driving offence)
 - ☐ Increasing penalties for repeated offences
 - ☐ Prosecuted before the courts
 - ☐ Don't know
 - ☐ Some other action (please name this)
-

What do you think should happen to a person found in possession of HEROIN for personal use?

(you can tick more than one)

- ☐ No action
 - ☐ A caution or warning
 - ☐ Referral to a drug education and awareness programme
 - ☐ Referral to a drug treatment service
 - ☐ Participate in a community engagement programme
 - ☐ An on-the-spot fine (similar to a minor driving offence)
 - ☐ Increasing penalties for repeated offences
 - ☐ Prosecuted before the courts
 - ☐ Don't know
 - ☐ Some other action (please name this)
-

**What do you think should happen to a person found in possession of OTHER
ILLEGAL OR CONTROLLED DRUGS for personal use?**

(you can tick more than one)

- ☐ No action
 - ☐ A caution or warning
 - ☐ Referral to a drug education and awareness programme
 - ☐ Referral to a drug treatment service
 - ☐ Participate in a community engagement programme
 - ☐ An on-the-spot fine (similar to a minor driving offence)
 - ☐ Increasing penalties for repeated offences
 - ☐ Prosecuted before the courts
 - ☐ Don't know
 - ☐ Some other action (please name this)
-

Section 5: Respondent Information

What is your sex?

- ☐ Male
- ☐ Female
- ☐ Rather not respond

What age are you?

About what proportion of your family, friends and acquaintances have used illegal drugs?

- ☐ All
- ☐ Most
- ☐ About half
- ☐ A few
- ☐ None
- ☐ Don't know

Please tick the relevant boxes that best describe you. You are responding:

- ☐ On behalf of an organisation (please enter name of organisation you are responding on behalf of) _____
- ☐ As an individual who is involved in an organisation that helps people affected by drugs or that advocates on behalf of people who use drugs
- ☐ As an individual who has never used illegal drugs
- ☐ As an individual who has used illegal drugs on only a few occasions
- ☐ As an individual who has used illegal drugs on many occasions
- ☐ As a member of a family affected by drugs
- ☐ As a person who has been prosecuted for possession of drugs for personal use
- ☐ Other, please specify _____

We welcome any other feedback that you would like to add, please use this space
(max 500 characters)

Thank you for completing this questionnaire.

We will present all views received during the public consultation in a report to the Working Group to help them make recommendations to the relevant Minister(s).

Section 6: Options for Further Consultation

The Working Group may wish to consult further as part of its work. If you are happy to be considered for this, please provide your contact details below.

(This is OPTIONAL)

- ☐ Name _____
- ☐ Organisation (if relevant) _____
- ☐ Email address _____
- ☐ Telephone number _____

Please be aware that any personal information you provide will remain confidential and will only be used for the purpose of the Working Group's recommendations.

Appendix 2

The Open Policy Debate

Moderator:

- Mr John Carr

Presenatations:

- Jane-Ann O'Connell, Department of Health
- Dr. Gerry McCarney, HSE
- Garnett Orange, SC, The Law Library

Organisations that participated in the Open Policy Debate:

- College of Psychiatry
- Citywide Drugs Crisis Campaign
- Pavee Point
- National Family Support Network
- Safer Blanchardstown
- Local Drug and Alcohol Task Forces
- Irish Medical Organisation
- Irish Council for Civil Liberties
- UISCE (The Union for Improved Services, Communication and Education)
- Community Awareness of Drugs
- Regional Drug and Alcohol Task Forces
- Ana Liffey Drug Project
- National Voluntary Drug and Alcohol Sector
- Spunout.ie